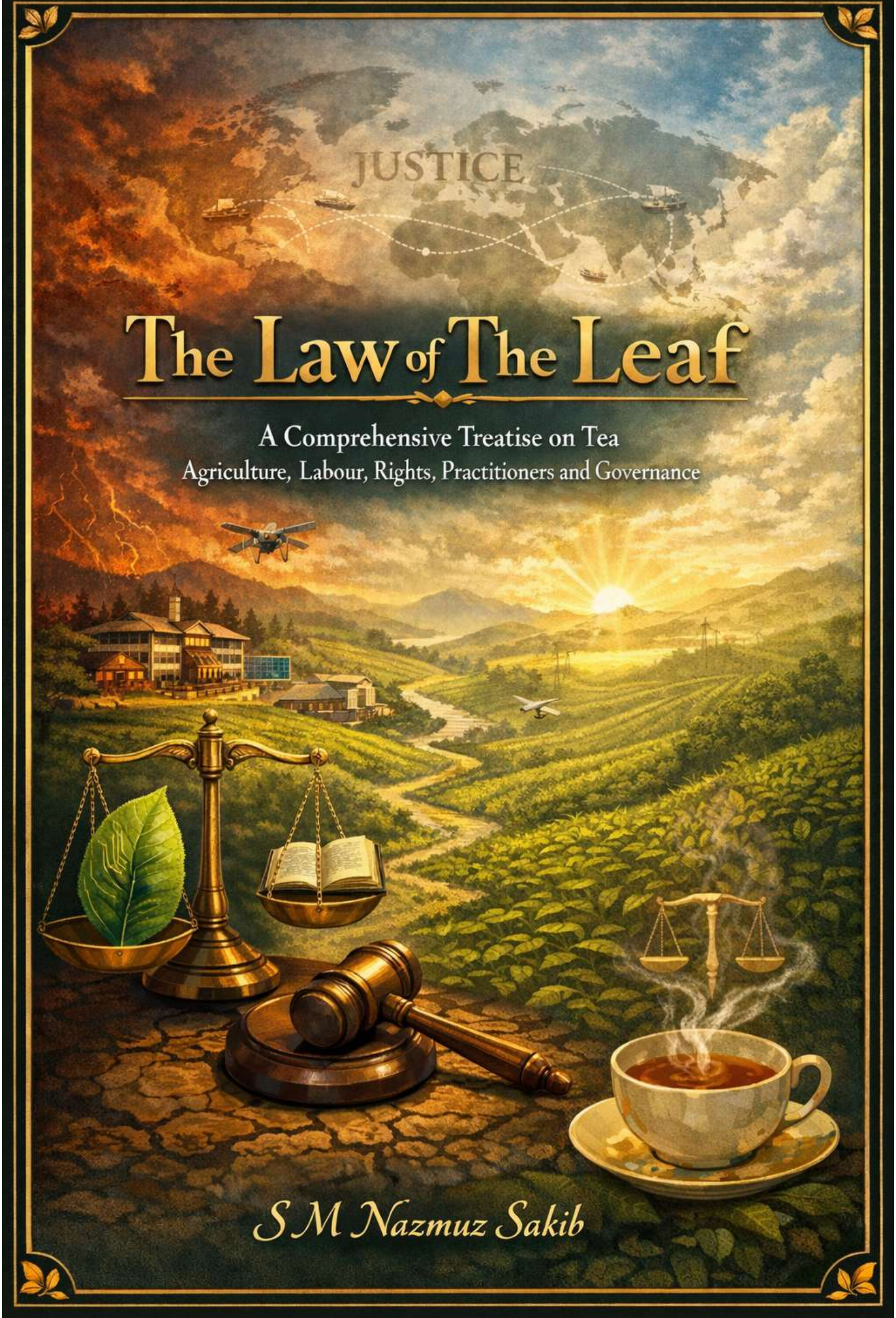
JUSTICE
The Law of The Leaf
A Comprehensive Treatise on Tea
Agriculture, Labour, Rights, Practitioners and Governance
S M Nazmuz Sakib

The Law of The Leaf: A Comprehensive Treatise on Tea Agriculture, Labour, Rights, Practitioners And Governance

S M Nazmuz Sakib

Edited and Authored for Advanced Legal Studies, Agricultural Law Practice, and Policy Research

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This treatise is intended for academic, legal, and policy research use. The analyses, interpretations, and conclusions presented herein represent the scholarly assessment of the author based on available evidence as of the date of publication. The complex and contested nature of many legal frameworks, historical events, and contemporary developments discussed means that alternative interpretations are legitimate and possible.

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Cataloguing Note: This comprehensive treatise examines the full spectrum of legal frameworks governing the global tea industry, including colonial legal history, plantation labour law, constitutional rights of tea workers, international trade law, geographical indications, environmental and climate law, digital and AI governance, supply chain due diligence, and access to justice. It is designed for legal practitioners, policymakers, academics, and students in agricultural law, labour law, international trade, and development studies.

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PART ONE: FOUNDATIONS, HISTORY, JURISPRUDENCE, AND THE COLONIAL ARCHITECTURE OF TEA LAW

FOREWORD TO PART ONE

Law does not grow in a vacuum. It grows, much like the tea plant itself, from specific soils, under specific climatic pressures, tended by specific hands and shaped by the politics of those who controlled the land, the labour, and the leaf. The law of tea is one of the most layered, emotionally charged, and intellectually rich areas of agricultural and labour jurisprudence in the world. It touches the lives of tens of millions of people across Asia, Africa, and South America. It implicates questions of constitutional dignity, colonial inheritance, environmental stewardship, gender justice, indigenous rights, and global trade. It sits at the crossroads of public law and private law, of domestic legislation and international convention, of ancient custom and digital innovation.

This textbook is designed to take the student, the practitioner, the policy researcher, and the interested citizen deep into that crossroads. It does not merely survey the legislation. It investigates the philosophy behind the legislation, the political motivations that shaped it, the theoretical frameworks that justify or challenge it, and the human consequences that flow from its application or non-application. It draws upon jurisprudential traditions from Bentham and Austin to Dworkin and Rawls, from Hart to Sen, and situates those traditions within the specific and peculiar world of the tea plantation, the tea garden, the smallholder farm, the auction house, the research laboratory, and the worker's humble dwelling beside the estate.

Part One is dedicated to the foundational questions. Before one can interpret a statute, one must understand why it was written, what world it was responding to, and what theory of law and society motivated its authors. Before one can assess whether a labour protection is adequate, one must understand the historical structures of exploitation that made such protection necessary in the first place. Before one can propose reform, one must understand both the intellectual heritage and the institutional inertia that reform must overcome.

The reader is invited to approach this text not merely as a reference work but as a sustained argument, a long conversation between history and the present, between theory and practice, between those who hold power in the tea industry and those upon whose labour that power ultimately rests.

CHAPTER ONE: THE WORLD OF TEA AND WHY IT NEEDS ITS OWN LAW

1.1 Tea as a Global Legal Subject

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Tea is the most widely consumed beverage in the world after water. That fact, simple as it sounds, carries enormous legal significance. A commodity consumed by billions of people every day is produced by a relatively small number of countries, on land concentrated in the hands of estates and corporations, by workers who belong to some of the most economically marginalised communities on earth. The global supply chain of tea stretches from the misty hillsides of Darjeeling and Assam, through the high-altitude gardens of Sri Lanka, the vast smallholder plots of Kenya, the ancient terraced fields of Yunnan in China, and the lush gardens of Bangladesh, all the way to the supermarket shelves of London, Tokyo, New York, and Sydney.

Every point along that supply chain raises legal questions. Who owns the land? On what terms do workers labour? What wages must they be paid? What welfare facilities must be provided? Who regulates the quality of the tea? Who controls the trade? What environmental standards apply? Who bears liability when a worker is injured, when a crop fails, when a garden closes? What rights do smallholder farmers have against the large companies that buy their green leaf? What intellectual property protections apply to geographical indications like Darjeeling tea? What obligations do importing countries impose upon producing nations through trade agreements? And in the twenty-first century, what does the rise of artificial intelligence, precision agriculture, blockchain traceability, and digital labour management mean for the legal rights and obligations of everyone in the chain?

These are not abstract questions. They are questions that affect the daily lives of an estimated 13 million workers directly employed in tea cultivation and processing worldwide, and the livelihoods of many more smallholder farmers and their families. The International Labour Organization estimates that when one includes all tea-related employment, seasonal workers, transport workers, processors, packers, and traders, the number of people whose economic lives are structured around tea exceeds 30 million globally.

The legal frameworks that govern these millions of people are fragmented, inconsistent, often outdated, and frequently inadequate. In some countries, they are the product of colonial legislation drafted to serve the interests of plantation owners rather than workers. In others, they are the product of post-independence reforms that were progressive in aspiration but poorly implemented in practice. In still others, they are a patchwork of general labour law, agricultural regulation, environmental statute, and ad hoc executive action that creates a confusing and often contradictory landscape that even experienced practitioners struggle to navigate.

This textbook argues that tea deserves, and indeed requires, a dedicated body of legal scholarship and practice. Not because it is unique in every respect, but because the combination of its scale, its history, its social complexity, and its economic significance creates a set of legal problems that cannot be adequately addressed by reference to general principles alone. Tea law, as a field, is still in formation. This text is a contribution to that formation.

1.2 Defining the Field: What Is Tea Law?

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Tea law, as this text conceives it, is the body of legal norms, statutory frameworks, judicial decisions, administrative regulations, international conventions, and customary practices that govern the cultivation, processing, trade, labour relations, environmental management, quality regulation, intellectual property, technology use, and governance of the tea industry.

That is a broad definition, and deliberately so. Tea law draws upon multiple areas of traditional legal study. It is not reducible to any one of them. From agricultural law it takes its concerns with land tenure, land use regulation, crop insurance, input subsidies, and environmental stewardship. From labour law it takes its central preoccupation with the rights and conditions of workers, including wages, hours, safety, welfare, social security, freedom of association, and the right to collective bargaining. From administrative law it takes its interest in the structure and functioning of regulatory bodies like tea boards and plantation labour departments. From constitutional law it takes the framework of fundamental rights within which all other legal norms must be situated. From international law and trade law it takes the frameworks of bilateral and multilateral agreements that shape the global market for tea. From intellectual property law it takes the law of geographical indications and trademarks that protect the distinctiveness and value of premium teas. From environmental law it takes the increasingly important frameworks governing pesticide use, water management, soil conservation, and climate adaptation. From technology law it takes the emerging questions around digital labour management, agricultural data sovereignty, and blockchain traceability.

Tea law is therefore an interdisciplinary field in the best sense. It requires the practitioner and scholar to move fluidly between these domains, to understand how they interact with and sometimes contradict one another, and to develop synthetic judgements about how the law should develop.

1.3 Why a Dedicated Jurisprudence of Tea Law?

One might ask whether tea law is really a distinct field at all, or whether it is merely the application of general principles to a specific industry. The question is worth taking seriously, because the answer reveals something important about the nature of legal knowledge itself.

H.L.A. Hart, in "The Concept of Law" (1961), distinguished between primary rules (rules of conduct that impose obligations or confer rights) and secondary rules (rules about rules, including rules of recognition, change, and adjudication). In any mature legal system, secondary rules are what give the system its coherence. They allow us to identify what the law is, how it changes, and how disputes about it are resolved. The question for any sub-field of law is whether it has, or needs, its own secondary rules, or whether it simply inherits them from the parent system.

Tea law inherits its secondary rules from the general legal system of the country in question. There is no separate "Tea Constitution" or "Tea Basic Norm" in the Kelsenian sense. What makes tea law a coherent field is not a separate hierarchy of norms but a shared subject matter, a shared history, a shared set of practical problems, and a shared set of stakeholders. In this respect

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it resembles maritime law, or mining law, or aviation law: fields that draw their formal authority from general legal sources but that have developed, over time, a distinctive body of doctrine, practice, and expertise.

The justification for a dedicated jurisprudence of tea law is ultimately pragmatic, but it is also normative. It is pragmatic because the problems of the tea industry are real and pressing and require specialised knowledge to address. It is normative because those problems involve fundamental questions of justice, dignity, and rights that deserve sustained philosophical attention and not merely technical legal analysis. The jurisprudence of tea law must ask not only "what is the law?" but "what should the law be, and why?" And in answering that second question, it must engage with the full range of legal philosophy, political theory, and social ethics that bear upon it.

CHAPTER TWO: HISTORICAL FOUNDATIONS OF TEA LAW: FROM THE ANCIENT LEAF TO THE COLONIAL SYSTEM

2.1 Tea in Ancient Law and Custom

The history of tea as a cultivated plant stretches back more than two thousand years. The earliest written records of tea cultivation and consumption are Chinese, and the earliest legal and regulatory frameworks governing tea are also Chinese. The Tang Dynasty (618-907 CE) saw the first systematic state regulation of tea production and trade. The famous "Tea Classic" (Cha Jing) written by Lu Yu around 760 CE, while primarily a work of aesthetics and cultivation practice, was produced in a context of active state interest in tea as a revenue source. The Tang government established tea monopolies and taxation systems that gave the state a direct financial interest in regulating both production and trade.

The Song Dynasty (960-1279 CE) further developed this regulatory apparatus. Tea trading licences were introduced, and the state developed elaborate systems for controlling the movement of tea between producing regions and markets. Violations of these controls were treated as serious offences, and there are records of prosecutions and punishments for unlicensed tea trading, tax evasion, and adulteration of tea products. These early Chinese regulatory frameworks represent, in a sense, the first body of tea law in the world.

The Ming Dynasty (1368-1644 CE) continued and elaborated the state's role in tea regulation. Particularly significant was the use of tea as a strategic commodity in relations with nomadic peoples on China's northern and western frontiers. The "Tea-Horse Trade" (Cha-Ma Hushi) established a system by which Chinese tea was exchanged for horses from Tibetan and Mongol peoples. This trade was regulated by the state through a series of imperial edicts, trading posts, and inspection systems that constituted an early body of what we might today call agricultural trade law with foreign policy dimensions.

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In India, tea cultivation on a significant scale did not begin until the colonial period, though there is evidence that indigenous Assamese communities had long known of the wild tea plant (Camellia sinensis var. assamica) growing in the forests of Assam. The Singpho and Khamti communities of Assam prepared and consumed a form of tea long before the arrival of the British. Their customs and practices around the tea plant constituted a form of customary regulation, embedded in the social and religious structures of their communities, that the colonial project would largely ignore and ultimately displace.

2.2 The Colonial Encounter: Tea, Empire, and the Legal Architecture of Extraction

The modern legal framework of tea law, in South Asia and much of Africa, is inextricably bound up with the history of British colonialism. This is not merely a historical observation. It is a jurisprudential claim of the first importance. To understand why tea law in India, Bangladesh, Sri Lanka, and Kenya looks the way it does today, one must understand the colonial legal project that created its foundational architecture.

The story begins in earnest in the early nineteenth century. The British East India Company had been dependent for its hugely profitable tea trade on Chinese supply. The Opium Wars (1839-1842 and 1856-1860) disrupted and ultimately transformed this relationship. But even before the Opium Wars, British interests were looking for ways to produce tea domestically within the Empire, both to reduce dependence on China and to exploit the vast fertile territories of Assam that had come under British control following the First Anglo-Burmese War of 1824-1826.

The discovery, or rather the formal recognition, of the wild tea plant in Assam was announced to the British scientific community in 1823 by Robert Bruce, a Scottish merchant, and subsequently confirmed by botanical surveys. The colonial administration quickly grasped the commercial potential. In 1839, the first public sale of Assam tea took place in London, and the Assam Company, the world's first joint-stock tea company, was incorporated.

What followed was one of the most significant and consequential acts of legal engineering in colonial history. The British colonial administration set about creating a legal framework designed to make tea cultivation in India commercially viable. This framework had three essential components: a land law that dispossessed existing inhabitants and made vast tracts of land available for plantation development; a labour law that ensured a supply of cheap, controllable labour for those plantations; and a fiscal and administrative framework that protected the interests of capital against the interests of labour and the wider community.

2.3 The Wasteland Grants and the Dispossession of Indigenous Communities

The land component of the colonial tea law framework was built around the concept of "waste land." Under the British colonial legal doctrine, land that was not under settled cultivation as recognised by colonial administrative standards was deemed "waste" and subject to Crown ownership and grant. This doctrine had its intellectual roots in the Lockean theory of property, which held that labour mixed with land created property rights and that uncultivated land was

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therefore available for appropriation by those willing to cultivate it. John Locke's argument in the "Second Treatise of Government" (1689) had been deployed throughout the British colonial project to justify the dispossession of indigenous peoples from their lands, on the grounds that their uses of the land (hunting, gathering, shifting cultivation, pastoral use) did not constitute the kind of labour that gave rise to property rights in the colonial legal imagination.

In Assam, the Wasteland Grant Rules of 1838 and their successors, particularly the Assam Land Revenue Regulation of 1886, established the framework for making land available for tea cultivation. Under these rules, the colonial government offered large tracts of "waste land" to would-be planters at nominal rents, with long leases that could extend to ninety-nine years, and with provisions for the conversion of leasehold to freehold after specified periods of cultivation.

The problem, of course, was that much of this "waste land" was not waste at all. It was forest and grassland that supported the subsistence economies of indigenous Assamese communities, including the Bodo, Mising, Karbi, and other peoples who had customary rights of use and habitation that the colonial legal framework simply refused to recognise. The creation of the tea plantation system in Assam involved a wholesale dispossession of these communities, and the legal instruments of that dispossession were the wasteland grant rules and the colonial land revenue system.

This dispossession is not merely historical. It continues to generate legal disputes in the present day, as indigenous communities seek recognition of their customary land rights under post-colonial constitutional frameworks and international instruments like the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) of 2007. The jurisprudence of indigenous land rights in tea-growing regions is an active and evolving area of law that we will examine in detail in later chapters of this text.

2.4 The Labour Laws of Coercion: The Inland Emigration Acts and Their Legacy

If the land law of colonial tea was built upon dispossession, the labour law of colonial tea was built upon coercion. The tea plantations of Assam in particular were established in regions that were, at the time, sparsely populated. The indigenous population was insufficient to provide the labour force that plantation agriculture required. The colonial government therefore organised, and the plantation companies funded, the migration of labour from the densely populated poverty-stricken districts of Bengal, Bihar, Orissa, and Madras to the tea gardens of Assam.

This migration, however, was not voluntary in any meaningful sense. The workers who were recruited, typically by contractors called arkattis who operated through a system of advance payment, signed contracts that bound them to work on the plantations for periods of years under conditions that gave the employer almost unlimited power over their persons. Workers who attempted to leave the plantation before the expiry of their contracts were liable to criminal prosecution and imprisonment. The system was one of debt bondage and criminal enforcement, and it created conditions of labour that, as historians and legal scholars have increasingly recognised, approached those of slavery.

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The legal architecture of this system was provided by a series of Acts enacted by the colonial legislature. The Act XIII of 1859, variously known as the Workmen's Breach of Contract Act, made it a criminal offence for a labourer to breach a contract of service. The Inland Emigration Acts of 1863 and 1882 created a comprehensive framework for the recruitment, transport, and binding of plantation workers. Under the Act of 1882, workers who had been recruited under the penal contract system (which bound them to the plantation under threat of criminal sanction) could be apprehended by the police if they left the estate without permission, and returned by force to the estate.

The implications of these laws for the jurisprudence of labour law are profound and cannot be overstated. They represent a deployment of criminal law in the service of what would today be recognised as forced labour, in direct violation of the norms subsequently embodied in the ILO's Forced Labour Convention of 1930 (No. 29) and, going further back in legal history, in direct contradiction of the liberal principles of free contract that the colonial government simultaneously championed in other contexts.

The contradiction was not lost on critics at the time. Pherozeshah Mehta, one of the founders of the Indian National Congress, attacked the Assam Labour Laws in the colonial legislature as early as 1901, arguing that they were incompatible with the principles of personal liberty that were supposed to be the hallmark of British rule. The missionary press, particularly through the work of Benjamin Peary Peel and later the Reverend Charles Dowding, published detailed accounts of abuses on the tea plantations that generated significant controversy in Britain itself. The reports of George Barker, an inspector appointed by the colonial government, documented in 1884 appalling conditions of mortality, flogging, and arbitrary detention that shocked British public opinion.

These controversies produced a series of legislative responses that partially ameliorated but never fundamentally transformed the coercive structure of plantation labour law. The Amendment Acts of 1882 and 1901 modified some of the worst provisions of the penal contract system, and the Workmen's Breach of Contract Act was eventually repealed in 1926. But the structural dependence of the plantation labour system on extra-economic compulsion, rooted in debt, tied housing, tied rations, and physical isolation, persisted far beyond the formal repeal of the penal provisions.

2.5 The Chargola Exodus of 1921 and the Rise of Organised Resistance

The history of tea labour law is not only a history of oppression. It is also a history of resistance, organised and unorganised, that has shaped the legal framework just as surely as the legislative acts of colonial governments. The Chargola Exodus of 1921 is one of the most dramatic and jurisprudentially significant episodes in that history of resistance.

In May 1921, inspired by the Non-Cooperation Movement launched by Mahatma Gandhi, thousands of tea workers in the Surma Valley (in what is now Bangladesh's Sylhet district) abandoned the plantations and attempted to return to their homes in Bihar and Orissa by steamer.

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The planters and the colonial administration responded with force. The workers were prevented from boarding the steamers, blocked at the ghat (river landing) by police, and many were killed or died from disease and exposure in the subsequent confrontation. The episode became known as the Chargola Exodus or the Mulnigiri Tragedy, and it stands as a stark illustration of the violence upon which the plantation labour system ultimately rested.

The legal significance of the Chargola Exodus is several-fold. First, it demonstrated that the rights to freedom of movement and freedom of association, which were being invoked by Indian nationalists in the political sphere, had a direct application to the plantation labour system that the colonial government was wholly unwilling to acknowledge in that context. Second, it generated a significant body of protest literature, journalism, and political agitation that fed into the legislative debates of the 1920s and 1930s and ultimately contributed to the partial reform of the Inland Emigration Acts. Third, and perhaps most importantly for the purposes of legal theory, it raised in vivid and tragic form the question of the relationship between formal legal rights and substantive legal protection, a question that remains central to the jurisprudence of tea labour law to this day.

Amartya Sen's concept of "capabilities," developed in his later work on the theory of justice, provides a useful theoretical framework for understanding the significance of the Chargola Exodus and episodes like it. Sen's capabilities approach, which holds that human development must be measured not merely by income or formal rights but by what people are actually able to do and be, captures something that formal legal analysis tends to miss: the fact that a legal right that cannot be exercised, because of poverty, isolation, physical coercion, or lack of information, is not really a right at all in any substantively meaningful sense. The tea workers of the Chargola had, in theory, certain rights under the existing legal framework. But those rights existed in a context that made them practically unexercisable. The tragedy of the Chargola Exodus was the tragedy of rights without remedies, of law without justice.

2.6 Tea Law in Sri Lanka: The Ceylon Plantation System and Its Legal Structure

The legal history of tea in Sri Lanka (Ceylon) runs parallel to that of India but has its own distinctive features. Tea cultivation in Ceylon began in earnest in the 1870s, following the devastation of the coffee plantations by the fungal disease Hemileia vastatrix (coffee leaf rust). The transformation of the Ceylonese plantation economy from coffee to tea was rapid, and by the 1890s Ceylon was already a major exporter of tea.

The labour force for the Ceylonese tea plantations was drawn primarily from Tamil communities in South India, particularly from the districts of Madurai, Tirunelveli, and Tanjore. Like the indentured workers of Assam, these Tamil workers were recruited under systems that gave them little effective freedom of choice and bound them to the plantation in conditions of considerable dependency. Unlike the Assam system, however, the Ceylonese plantation labour system did not rely primarily on criminal sanctions to enforce labour contracts. Instead, it relied on the combination of physical isolation (the estates were in the central highlands, far from any urban centre), social segregation (the Tamil workers were kept entirely separate from the Sinhalese

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population), and economic dependency (housing, rations, and basic amenities were all provided by the estate, making workers entirely dependent on the employer for their subsistence).

The legal framework governing Ceylonese plantation workers was established primarily through the Labour Ordinances of the colonial period, most notably the Indian Immigrant Labour Ordinance and the Estate Labour (Indian) Ordinance of 1889, subsequently amended on multiple occasions. These ordinances created a system of registration and control that, while less explicitly coercive than the Assam penal contract system, was equally effective in tying workers to the plantation.

The post-independence history of Tamil plantation workers in Sri Lanka is one of the most complex and troubling in the entire field of tea law. The Ceylon Citizenship Act of 1948, enacted by the newly independent government of Ceylon just one year after independence, stripped the citizenship rights of approximately one million Indian Tamil workers on the tea estates. These workers, and their descendants, were rendered stateless by a single legislative act, losing not only their political rights but their access to public services, their right to own property, and ultimately their right to remain in the country.

The jurisprudential questions raised by the Ceylon Citizenship Act of 1948 are among the most profound in the field. Was it legitimate for a newly independent state to deny citizenship to residents who had been settled in the country for generations, on the grounds of their ethnic origin and the circumstances of their original migration? What obligations did the international community have toward these stateless persons? What role, if any, did the content and history of the colonial labour law system bear upon the post-colonial state's obligations?

These questions were addressed, in a limited and ultimately inadequate way, by the Indo-Ceylon Agreements (the Sirima-Shastri Pact of 1964 and the Sirima-Indira Pact of 1974), which allocated the stateless Tamil workers between India and Sri Lanka and provided for the grant of citizenship to those allocated to each country. But as scholars and human rights organisations have documented, the implementation of these agreements was slow, inconsistent, and left many people without any legal status for decades. The descendants of those who fell through the cracks of the interstate agreements continue to face legal vulnerability and social marginalisation on the Sri Lankan tea estates today.

2.7 Tea Law in Kenya: Colonial Land Alienation, the Smallholder Revolution, and Contemporary Frameworks

The legal history of tea in Kenya follows yet another pattern, shaped by Kenya's particular colonial and post-colonial experience. Tea cultivation in Kenya was introduced by the colonial government in the 1920s, and the early decades of the industry were dominated by large European-owned estates, particularly in the Kericho and Nandi areas of the Rift Valley. The legal framework governing these estates was drawn from the same colonial template as elsewhere: land alienation from African communities under the concept of "Crown Land,"

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recruited labour from the Kikuyu and other communities, and a pass system that controlled the movement of African workers on the estates.

The Kenya Tea Development Agency (KTDA), established in 1964 (initially as the Special Crops Development Authority), represents one of the most interesting and jurisprudentially significant experiments in post-colonial agricultural development law in the world. Recognising that the colonial model of large estate production was both economically inefficient and politically unsustainable in post-independence Kenya, the KTDA model was built around the development of smallholder tea cultivation. Smallholder farmers grew green leaf on their own land and delivered it to KTDA-managed factories for processing. The KTDA provided the technical assistance, the factory infrastructure, the quality control, and the marketing, while the smallholders retained ownership of their land and a significant share of the value of the final product.

The KTDA model has been widely studied as a potential paradigm for agricultural development in low-income countries, and the legal framework that governs it raises important questions about the appropriate relationship between state, cooperative enterprise, and individual farmer rights. In 2000, the KTDA was privatised and became a company owned by the smallholder farmers themselves through their factory companies. The legal questions around corporate governance, farmer rights, equitable benefit distribution, and accountability that arose from this privatisation continue to be debated in Kenyan courts and policy forums.

Kenya's Tea Act and the regulations made under it, together with the Tea Board of Kenya's regulatory functions, constitute the current legal framework for tea in Kenya. Recent developments in 2024 and 2025 include ongoing disputes about the pricing of green leaf, the governance of the Kenya Tea Development Agency's successor entities, and the impact of climate change on smallholder viability, all of which raise important legal questions that we will examine in subsequent chapters.

CHAPTER THREE: JURISPRUDENTIAL FOUNDATIONS OF TEA LAW: THEORY AND PHILOSOPHY

3.1 The Relevance of Legal Philosophy to Agricultural Labour Law

One of the persistent criticisms of legal education in South Asia and Africa is that it is too narrowly technical, too focused on the parsing of statutes and the recitation of precedents, and insufficiently attentive to the deeper philosophical questions about the nature, purpose, and legitimacy of law. This criticism is particularly apt in the context of tea law, where the gap between the formal content of the legal framework and the lived reality of the workers it purports to protect is so wide that no purely technical analysis can adequately account for it.

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Jurisprudence, the philosophy of law, is not a luxury for those who have mastered the technical material and wish to engage in intellectual recreation. It is a necessary foundation for understanding why the law is what it is and what standards of criticism are available to those who wish to argue that it should be different. In the field of tea law, jurisprudence is inseparable from practical engagement.

This chapter examines the major jurisprudential traditions that are relevant to the analysis of tea law and the regulatory frameworks governing the tea industry. It does not pretend to offer a comprehensive survey of legal philosophy. Rather, it identifies those philosophical frameworks that are most directly relevant to the specific problems and questions of the field, and shows how they can be used to illuminate those problems in ways that purely technical legal analysis cannot.

3.2 Natural Law and the Claims of Tea Workers

The oldest tradition in Western legal philosophy is natural law theory, which holds that there is a body of moral principles that are objectively valid and that positive law (the law enacted by human authorities) must conform to in order to be genuinely obligatory. Natural law theory has deep roots in Greek philosophy (Aristotle's concept of the "natural" in the context of political communities), was developed by the Roman jurists (particularly Cicero's distinction between natural law and civil law), was given its most influential medieval formulation by Thomas Aquinas, and was elaborated in the modern period by writers like Francisco Suarez, Hugo Grotius, and Samuel Pufendorf.

For the purposes of tea law, natural law theory provides a powerful set of tools for criticising the colonial labour framework described in the previous chapter. The proposition that human beings have, by nature, certain rights that no human authority can legitimately deprive them of, including rights to personal liberty, to the fruits of their labour, and to freedom of movement, was precisely the proposition that the colonial penal contract system violated. The natural law critique of the Inland Emigration Acts and the Workmen's Breach of Contract Act is essentially this: that no legislature, however formally constituted, had the authority to enact laws that reduced human beings to a condition of forced servitude, because such laws were contrary to the natural rights of persons as human beings.

In the contemporary context, natural law theory continues to provide resources for criticising legal frameworks that fall below minimum standards of human dignity. The argument that tea workers in Assam and West Bengal, receiving daily wages of approximately Rs. 232 and Rs. 250 respectively as of 2024-25 (levels that are significantly below the statutory minimum wages for comparable categories of agricultural labour in other sectors), are being denied rights that they are entitled to by their nature as human beings and workers, is a natural law argument in structure even when it is not explicitly framed as such.

John Finnis, whose "Natural Law and Natural Rights" (1980) is the most important modern statement of natural law theory in the analytical tradition, identifies a set of "basic goods" that any adequate legal framework must protect and promote. These include life, knowledge,

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friendship, practical reasonableness, and what Finnis calls "religion" (in the broadest sense of a person's orientation toward the transcendent). The application of Finnis's framework to the conditions of tea workers raises searching questions about whether legal systems that permit the persistent underpayment of wages, the denial of adequate housing, the restriction of access to education, and the undermining of community solidarity are compatible with the protection of the basic goods that natural law requires.

3.3 Legal Positivism and the Limits of Descriptive Analysis

Legal positivism, the tradition associated with Jeremy Bentham and John Austin in the nineteenth century and with H.L.A. Hart and Hans Kelsen in the twentieth, holds that law is a social fact, determined by the content of enacted norms and their formal sources, and that the question of whether law is morally justified is separate from the question of what the law is. For the positivist, the Inland Emigration Act of 1882 was law because it was enacted by a competent legislative authority in accordance with the recognised procedures of the colonial legal system, regardless of its moral character.

The positivist approach to tea law has important practical virtues. It insists on precision in the identification and interpretation of legal norms, avoids the conflation of what the law is with what we think it ought to be, and provides a disciplined framework for legal argument in courts and other legal forums. A practitioner advising a tea company or a workers' union on the state of the law needs to know what the law actually says, not merely what a philosophically satisfying version of the law would say.

But the positivist approach has important limitations when applied to the field of tea law. One of the most significant is that it provides no internal resources for critiquing a legal framework that consistently fails to protect the rights and interests of the most vulnerable people in the system. Hart, in his recognition of the "minimum content of natural law," acknowledged that any legal system that aimed at the long-term survival of a society would need to incorporate certain protections of basic human interests. But this minimum content is a thin foundation upon which to build a critique of the systematic underpayment, displacement, and marginalisation that characterises the situation of tea workers in many jurisdictions.

Furthermore, legal positivism faces a particular challenge in the post-colonial context. If law is what is enacted by a competent authority, then the legitimacy of the colonial legislation that created the plantation system depends on the legitimacy of the colonial authority itself. But the legitimacy of colonial rule is precisely what Indian, Ceylonese, and Kenyan nationalists denied. If the colonial authority lacked legitimacy, then the legal framework it created also lacked legitimacy, and the post-colonial state's inheritance of that framework is not automatically validated by the transfer of sovereignty.

This line of argument has been developed by a number of post-colonial legal theorists, including Upendra Baxi, who has written extensively on the relationship between colonialism, law, and human rights in South Asia. Baxi argues that the post-colonial state's uncritical inheritance of

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colonial legal frameworks, including those governing plantation labour, represents a form of "legal colonialism" that perpetuates the structures of exploitation even in the formal absence of colonial rule.

3.4 Ronald Dworkin's Interpretive Theory and the Rights of Tea Workers

Ronald Dworkin's "law as integrity" theory, developed in "Law's Empire" (1986), offers a more sophisticated account of the relationship between law and morality than either natural law theory or legal positivism. For Dworkin, law is not merely a set of enacted norms (the positivist view) nor a set of moral principles that exist independently of enactment (the natural law view). Rather, law is the product of an ongoing interpretive practice in which legal interpreters (judges, lawyers, scholars) seek to identify the principles that best fit and justify the existing body of legal materials.

Dworkin's theory has important implications for tea law. Applied to the interpretation of labour protection legislation, it suggests that courts and other legal interpreters should not merely ask what the literal words of a statute require, but what interpretation of that statute best fits and justifies the broader legal framework of which it forms a part, including the constitutional commitments to human dignity, equality, and justice that are central to post-colonial legal systems.

This interpretive approach has been applied, with varying degrees of explicitness, by courts in India, Sri Lanka, and Kenya in cases involving the rights of plantation workers. The Indian Supreme Court's jurisprudence on the fundamental rights of workers, including decisions like Bandhua Mukti Morcha v. Union of India (1984), which recognised the concept of "bonded labour" as a violation of Article 21 of the Constitution (the right to life), and People's Union for Democratic Rights v. Union of India (1982), which extended constitutional protections to contract workers employed on construction projects, reflects a broadly Dworkinian approach to legal interpretation in the sense that it seeks to identify the principles that best fit and justify the constitutional and statutory framework as a whole.

The application of Dworkin's interpretive theory to the specific context of tea law raises interesting questions about the "law as integrity" principle in systems that have inherited deeply unjust historical frameworks. If the existing body of tea labour law is, in important respects, the product of colonial injustice, can an interpretive theory that emphasises fit with existing materials really serve the interests of justice? Or does law as integrity, in such a context, risk becoming a sophisticated rationalisation of the status quo?

This tension is one that Dworkin himself did not adequately address, and it has been the subject of extensive criticism by critical legal scholars, feminist legal theorists, and critical race theorists. For our purposes, it underscores the importance of not relying on any single jurisprudential framework to the exclusion of others, and of remaining attentive to the ways in which formal legal analysis can obscure as well as illuminate the real conditions of power and vulnerability in which tea law operates.

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3.5 Critical Legal Studies, Post-Colonialism, and the Law of Tea

Critical Legal Studies (CLS), the intellectual movement that emerged in American law schools in the late 1970s, challenged the assumptions of both legal positivism and liberal legal theory by arguing that law is not a neutral arbiter of social conflicts but an instrument of power that systematically advantages certain groups at the expense of others. CLS scholars argued that legal doctrine is characteristically indeterminate (meaning that its content does not uniquely determine legal outcomes but leaves wide room for judicial discretion) and that this indeterminacy is consistently resolved in ways that serve the interests of dominant groups.

The application of CLS insights to tea law is almost too easy, in the sense that the historical record provides such clear evidence of law being used as an instrument of power to serve the interests of plantation owners, colonial administrators, and post-colonial elites at the expense of workers and indigenous communities. The indeterminacy thesis is also powerfully illustrated by the history of judicial interpretation of plantation labour legislation, where courts have repeatedly had to choose between interpretations that favour workers and those that favour employers, and have often chosen the latter.

Post-colonial legal theory builds on CLS but adds a specifically historical and cultural dimension. Scholars like Partha Chatterjee, Ranajit Guha, Sudipta Kaviraj, and the Subaltern Studies collective have argued that the colonial experience created a distinctive form of legal consciousness in which formal legal rights coexist with and are undermined by informal structures of power, dependence, and exclusion. This "dual structure" of the colonial and post-colonial state is particularly visible in the plantation system, where the formal legal framework of employment law coexists with the substantive reality of tied housing, tied rations, social isolation, and the practical absence of exit options.

Upendra Baxi's concept of the "pedagogy of violence" in colonial law, developed in "The Future of Human Rights" (2002), is particularly illuminating for the analysis of tea labour law. Baxi argues that colonial law taught subjects not only the content of legal rules but the deeper lesson that law was an instrument of power that they could not effectively invoke for their own protection. This pedagogical effect, the internalisation of legal powerlessness, continues to shape the behaviour of tea workers in many jurisdictions, explaining why formal legal rights are not exercised even when they exist on paper.

3.6 Amartya Sen and the Capability Approach in Tea Law

Amartya Sen's capability approach, developed initially in "Poverty and Famines" (1981) and elaborated in "Development as Freedom" (1999) and "The Idea of Justice" (2009), provides one of the most powerful analytical frameworks available for evaluating the adequacy of legal frameworks for the protection of tea workers' rights.

Sen's fundamental insight is that human well-being and justice must be evaluated not in terms of resources or formal rights alone but in terms of capabilities, the real freedoms that people have to

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live lives they have reason to value. A legal framework that formally confers the right to freedom of association, but that operates in a context where workers are isolated on remote estates, dependent on the employer for housing and food, unaware of their legal rights, and without access to legal representation, does not in any meaningful sense protect the capability to organize collectively.

Applied to tea law, the capabilities approach generates a rich set of evaluative criteria. It asks not merely whether workers have the legal right to a minimum wage, but whether they have the capability to claim that wage effectively if it is not paid. It asks not merely whether there is legislation requiring the employer to provide adequate housing, but whether workers have the capability to seek redress if the housing is inadequate. It asks not merely whether there are laws prohibiting child labour on tea plantations, but whether children in tea-growing communities have the capability to access education as an alternative to plantation work.

Martha Nussbaum's elaboration of the capabilities approach, particularly in "Creating Capabilities: The Human Development Approach" (2011), provides an even more specific list of central capabilities that any just society must protect and promote. These include life, bodily health, bodily integrity, senses, imagination and thought, emotions, practical reason, affiliation, other species, play, and control over one's environment (both political and material). The evaluation of tea labour law against this list of central capabilities reveals systematic deficiencies in almost every jurisdiction.

3.7 John Rawls and the Justice of Tea Plantation Law

John Rawls's "A Theory of Justice" (1971) remains the most influential work of political philosophy in the liberal tradition, and its principles of justice have important implications for the evaluation of tea law. Rawls's thought experiment of the "veil of ignorance" asks us to imagine choosing the basic principles of social institutions without knowing our own position in society, whether we would be a plantation owner or a tea plucking worker, a manager or a migrant labourer. Rawls argues that rational persons behind the veil of ignorance would choose two principles: first, a principle of equal basic liberties, securing each person the broadest possible equal freedom compatible with like freedom for all; and second, a "difference principle," which permits social and economic inequalities only if they benefit the least advantaged members of society.

The application of Rawls's principles to tea law is revealing. The principle of equal basic liberties clearly requires that the legal framework protect the fundamental freedoms of tea workers, including freedom of movement, freedom of association, and freedom from arbitrary detention, on the same terms as those freedoms are protected for other citizens. The historical denial of these freedoms under the colonial penal contract system, and their continued practical limitation under contemporary systems of tied accommodation and economic dependence, is a clear violation of the first principle.

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The difference principle is more complex in its application. It does not require equality of outcome, but it does require that inequalities be arranged to benefit the least advantaged. In the context of the tea industry, this would require asking whether the existing distribution of wealth between plantation owners, tea companies, shareholders, and workers is one that maximises the position of the worst-off group (the workers). Given the persistent gap between the wages actually paid to tea workers and the statutory minimum wages for comparable categories of labour, and the enormous disparity between the profits generated by the tea industry globally and the poverty wages paid to those who grow and pick the leaf, it is difficult to argue that the Rawlsian difference principle is satisfied.

3.8 Feminist Legal Theory and the Gendered Dimensions of Tea Law

Any adequate jurisprudence of tea law must take feminist legal theory seriously, because the tea industry is fundamentally and pervasively gendered in ways that have profound legal significance. Women constitute approximately 50 to 70 percent of the workforce in most tea-growing countries, and in many regions the proportion is even higher for the most physically demanding task of tea plucking. Yet women workers in the tea industry consistently earn less than male workers (where wage differentiation by gender exists in practice if not in law), are disproportionately excluded from supervisory and management roles, face specific vulnerabilities to sexual harassment and gender-based violence on the estate, and often lack access to the reproductive health services and maternity protections that the law formally guarantees.

Feminist legal theory, in its various strands, provides a set of critical tools for analysing these gendered dimensions of tea law. Liberal feminist theory focuses on formal equality: the elimination of explicit sex discrimination in legislation and the extension of equal legal rights to women workers. This has been an important part of the reform agenda, reflected in provisions like the equal remuneration provisions of the Code on Wages 2019 in India, which applies across sectors including plantations.

But liberal feminist theory is insufficient on its own because it cannot account for the ways in which formally neutral legal rules can have systematically unequal impacts on women. Difference-sensitive feminist theory, associated with scholars like Carol Gilligan and Robin West, argues that law must take into account the specific circumstances and vulnerabilities of women, including their reproductive roles and the unpaid care work that disproportionately falls to them, in order to achieve genuine equality. Applied to tea law, this suggests that formal equal pay provisions are not enough: legal frameworks must also address the specific needs of pregnant workers, nursing mothers, and primary caregivers, and must take account of the ways in which the plantation system structures women's economic dependency within the household as well as in relation to the employer.

Critical feminist theory, drawing on the insights of CLS, goes further and argues that law itself is gendered in its structure and assumptions, not merely in its explicit content. The distinction between "work" and "welfare" in plantation labour law, the categorisation of housing, rations,

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and childcare as "amenities" rather than wages, the treatment of women workers' reproductive capacity as a source of employer cost rather than a social good deserving legal protection: all of these reflect assumptions embedded in the legal framework that are, on this view, inherently gendered and require fundamental structural critique rather than incremental reform.

CHAPTER FOUR: THE CONSTITUTIONAL FRAMEWORK OF TEA LAW IN SOUTH ASIA

4.1 The Indian Constitution and the Rights of Tea Workers

The Constitution of India, which came into force on January 26, 1950, is the supreme law of the land, and all legislation, including tea and plantation labour legislation, must conform to its provisions. The constitutional framework provides both the highest authority for protective legislation and the most powerful set of arguments for the legal reform of inadequate frameworks.

The most directly relevant constitutional provisions for the purposes of tea law are found in Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy). The Fundamental Rights chapter includes Article 14 (right to equality before the law), Article 15 (prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth), Article 16 (equality of opportunity in matters of public employment, which courts have extended in interpretation to the broader sphere of economic relations), Article 17 (abolition of "untouchability"), Article 19 (protection of certain rights including freedom of speech, assembly, association, movement, residence, and profession), Article 21 (protection of life and personal liberty), Article 23 (prohibition of traffic in human beings and forced labour), and Article 24 (prohibition of employment of children below 14 years in factories, mines, or other hazardous employment).

The Directive Principles of State Policy (Articles 36-51), while not directly enforceable as legal rights, have been treated by the Supreme Court as providing interpretive guidance for the construction of fundamental rights and as imposing genuine constitutional obligations on the state. Article 39 requires the state to direct its policy toward securing, among other things, the right of all citizens to adequate means of livelihood, equal pay for equal work for men and women, and conditions of work ensuring a decent standard of life and leisure. Article 41 requires the state to make effective provision for securing the right to work, to education, and to public assistance in cases of unemployment, old age, sickness, and disablement. Article 42 requires the state to make provision for just and humane conditions of work and for maternity relief. Article 43 requires the state to endeavour to secure to workers a living wage and conditions of work ensuring a decent standard of life.

The juxtaposition of these constitutional provisions with the reality of tea worker conditions documented in recent research is striking. As noted above, daily wages in Assam's tea gardens are approximately Rs. 232 (as of 2024-25), a figure that is dramatically below any plausible

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interpretation of a "living wage" as understood in either constitutional jurisprudence or international labour standards. The persistence of these conditions despite the constitutional mandate suggests either that the constitutional provisions are being interpreted too narrowly, that enforcement mechanisms are inadequate, or both.

4.2 Article 21 and the Right to Livelihood: The Supreme Court's Expansive Jurisprudence

Article 21 of the Indian Constitution guarantees that "no person shall be deprived of his life or personal liberty except according to procedure established by law." In the early decades of the Constitution's operation, the Supreme Court interpreted this provision narrowly, holding that as long as a procedure was established by law, it was constitutionally valid, regardless of its content. This interpretation, associated with the decision in A.K. Gopalan v. State of Madras (1950), limited the practical significance of Article 21 considerably.

The transformation of Article 21 jurisprudence began with Maneka Gandhi v. Union of India (1978), in which the Supreme Court held that the "procedure established by law" required by Article 21 must be fair, just, and reasonable. This opened the door to a much more expansive interpretation of Article 21, which has since been developed through a long line of decisions to encompass not only freedom from arbitrary detention but a broad range of positive rights associated with human dignity and a decent life.

In Francis Coralie Mullin v. Administrator, Union Territory of Delhi (1981), the Supreme Court held that the right to life includes the right to live with human dignity and "the bare necessaries of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms." In Olga Tellis v. Bombay Municipal Corporation (1985), the Court held that the right to livelihood was part of the right to life under Article 21, because no one could live without the means of livelihood.

These decisions have been applied in the context of plantation labour in important ways. The recognition that the right to life encompasses the right to a dignified existence, including adequate nutrition, housing, and the means of livelihood, provides a constitutional foundation for arguing that the persistent underpayment of tea workers, the failure to provide adequate housing and welfare facilities, and the denial of effective access to education for workers' children are all violations of Article 21.

In Bandhua Mukti Morcha v. Union of India (1984), the Supreme Court addressed the constitutionality of the Bonded Labour System (Abolition) Act, 1976, and held that bonded labour was inherently violative of Article 21 as well as Article 23 (prohibition of forced labour). The Court further held that the right to live with human dignity, derived from Article 21 read with the Directive Principles, includes protection from exploitation and the right to basic necessities. This decision is directly relevant to the situation of tea workers in regions where the combination of debt, tied accommodation, and practical absence of exit options continues to create conditions that are functionally analogous to bonded labour, even if they do not formally meet the statutory definition of that term.

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4.3 Article 23 and the Prohibition of Forced Labour: Relevance to Contemporary Tea Employment

Article 23 of the Indian Constitution prohibits "traffic in human beings and begar and other similar forms of forced labour." Begar is a term for labour extracted without payment, historically associated with feudal obligations. The prohibition is absolute: there is no exception for forced labour imposed under any legal authority, and Article 35 requires Parliament to make laws for its enforcement.

The People's Union for Democratic Rights v. Union of India (1982) case is foundational for the interpretation of Article 23 in the context of contemporary employment relations. The Supreme Court held in this case that "force" in Article 23 should not be understood narrowly as physical compulsion but should encompass economic compulsion as well: the situation of a person who is compelled by poverty and the lack of any alternative to accept employment on terms that they would not freely choose. The Court held that where a person was paid below the minimum wage, there was a presumption that the labour was extracted under compulsion within the meaning of Article 23.

This interpretation of Article 23 has profound implications for the tea industry. If workers are being paid wages below the statutory minimum (as is arguably the case in Assam and West Bengal given the gap between plantation wages and minimum wages for comparable categories of agricultural labour), then there is at least an arguable case that this constitutes a violation of Article 23 as well as the statutory minimum wage provisions. The constitutional dimension of this argument is significant because it elevates the issue from a matter of regulatory compliance to a matter of fundamental rights.

4.4 The Directive Principles and the Living Wage Debate in Tea Law

The concept of the "living wage" is one of the most contested in tea labour law, and the constitutional framework provides important resources for the debate. Article 43 of the Constitution directs the state to secure to workers a "living wage" as well as "conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities." The question of what a living wage means in practice has been the subject of extensive litigation, negotiation, and academic debate.

In Standard Vacuum Refining Co. v. Their Workmen (1960), the Supreme Court identified the components of a living wage as including a bare minimum for subsistence and efficiency, provision for education of children, medical needs, and a minimum of comfort to protect the worker against misfortune. The Court also endorsed the "need-based minimum wage" formula recommended by the Indian Labour Conference in 1957, which calculated minimum wages based on the consumption needs of a worker and their family including food (providing a net intake of 2700 calories per day per consumption unit), clothing (18 yards per year per individual), housing (rent equivalent to the minimum wage area allowance), fuel and lighting and

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miscellaneous items (20 percent of the total), and provision for children's education, medical expenses, recreation, and contingencies (25 percent of the total of the first four components).

The application of this formula to the tea industry produces a figure that is dramatically higher than the wages actually paid on Assam and West Bengal estates. This gap has been the subject of sustained academic and activist criticism, and it raises fundamental questions about the enforcement of constitutional directives and the political economy of minimum wage fixing in the plantation sector.

The gap between the "need-based minimum wage" formula and the wages actually paid in the tea industry reflects a structural feature of minimum wage governance in India: the special status of "scheduled employments" under the Minimum Wages Act of 1948, which allows different and typically lower minimum wages to be fixed for plantation workers than for workers in other sectors. This differential treatment has been defended on the grounds that plantation workers receive non-cash benefits (housing, rations, medical facilities) in addition to their cash wages, and that these benefits should be counted in assessing the adequacy of total remuneration. But as critics have argued, this defence is increasingly untenable given the deteriorating quality of plantation-provided amenities and the growing preference of workers for cash income with which they can make their own choices about housing, food, and other necessities.

4.5 Constitutional Framework in Bangladesh and Sri Lanka: Comparative Perspectives

The tea industries of Bangladesh and Sri Lanka also operate within constitutional frameworks that formally guarantee the rights of workers, but the implementation of those guarantees presents characteristic challenges.

In Bangladesh, the Constitution of 1972 (as amended) guarantees equality before the law (Article 27), non-discrimination (Article 28), and a range of fundamental rights including freedom of association (Article 38) and the right to form and join trade unions (Article 38). The Directive Principles (Part II of the Constitution) include provisions directing the state to ensure the right to work, reasonable wages, and humane working conditions. The Bangladesh Labour Act of 2006, as amended in 2013 and 2018, provides the primary statutory framework for labour rights in the formal sector, including the tea industry. However, as discussed above, discriminatory provisions in the 2006 Labour Act in relation to tea workers (including restrictions on trade union activities that are specific to the plantation sector) have been criticised as constitutionally problematic.

The ILO's ProGRESS project, which concluded its active phase in 2024, documented systematic gaps between the formal legal framework and the reality of tea workers' conditions in Bangladesh's Sylhet region. Workers reported widespread lack of knowledge of their legal rights, limited effectiveness of trade unions due both to the structural provisions of the Labour Act and to employer intimidation, and persistent problems with wage payment, working hours, and the availability of legally mandated welfare facilities. The project's conclusion that the Labour Act should be amended to address discriminatory clauses specifically affecting tea workers reflects a

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broader concern among labour rights organisations about the constitutionality of the existing framework.

In Sri Lanka, the Constitution of 1978 (as amended) provides a framework of fundamental rights that includes the right to equality (Article 12), freedom of speech and expression (Article 14), and the right to engage in any lawful occupation (Article 14(1)(g)). The Industrial Disputes Act of 1950 (as amended), the Termination of Employment of Workmen (Special Provisions) Act of 1971, and the wages boards system established under the Wages Boards Ordinance of 1941 provide the main statutory framework for plantation labour. The Tea and Rubber Plantation Wages Board has historically set wages for estate workers under a system that is distinct from (and typically lower than) the wages applicable in other sectors.

The political complexity of plantation Tamil worker rights in Sri Lanka, including the historical legacy of statelessness, the ongoing challenges of land rights on the estates, and the tensions between plantation worker communities and both the Sinhalese majority and the politically distinct Tamil communities of the north and east, makes constitutional analysis in this context particularly complex and contested.

CHAPTER FIVE: THE STATUTORY FRAMEWORK: THE PLANTATIONS LABOUR ACT 1951 AND ITS SUCCESSORS

5.1 The Birth of the Plantations Labour Act: Context and Objectives

The Plantations Labour Act of 1951 (Act No. 69 of 1951) was enacted by the Parliament of independent India in the fourth year of the republic. It was, in its time, a genuinely progressive piece of legislation, representing a significant departure from the colonial framework that had governed plantation workers. It abolished the penal contract provisions that had survived in various forms into the independence era and established, for the first time, a comprehensive statutory framework for the regulation of working conditions, welfare facilities, and health and safety standards on plantations employing tea, coffee, rubber, and cinchona workers.

The political context of the Act is important for understanding both its content and its limitations. It was enacted during the early years of the Nehruvian development state, a period of considerable optimism about the potential of legislative action to transform economic and social relations. The Indian National Congress, which governed India's first independent Parliament, included a strong labour wing that had been influenced by both socialist and Gandhian thinking, and the commitment to improving the conditions of plantation workers was a genuine political priority.

At the same time, the plantation industry was a major earner of foreign exchange at a time when India's foreign exchange position was precarious. The owners of the large tea estates, many of whom were by this time Indian rather than British, wielded considerable political influence and

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were determined to ensure that any protective legislation did not threaten the profitability of their enterprises. The result was a legislative compromise: protections were enacted, but they were often made subject to the state government's power to modify their application by notification, enforcement mechanisms were relatively weak, and the fundamental structure of the plantation economy, including tied housing, tied rations, and the physical isolation of workers, was left essentially undisturbed.

5.2 Key Provisions of the Plantations Labour Act 1951: A Critical Analysis

The Act applies to plantations of 5 hectares or more with 15 or more workers. This threshold exclusion is immediately significant: it excludes from the Act's protections the many smallholder plots and small estates that fall below the threshold, creating a two-tier system in which workers on small operations have no access to the protections the Act provides. This exclusion is particularly significant in the context of growing smallholder tea cultivation in India and in tea-growing countries globally.

The substantive provisions of the Act can be grouped under several heads: working hours and leave, welfare facilities, health and safety, housing, and social security.

On working hours, the Act limits the hours of work to 54 per week for adults (12 hours per day maximum including overtime, with a rest interval of half an hour if the work exceeds 5 hours), and provides for annual leave with wages at the rate of one day for every 20 days worked. These provisions, while offering a minimum level of protection, fall below the ILO's standard of 48 normal working hours per week established in Convention No. 1 (1919), and the leave provisions are less generous than those available in many other sectors.

The welfare facilities provisions (Sections 7-14) require the employer to provide canteens, creches for children of women workers, rest rooms, and recreational facilities. The medical facilities provisions (Sections 10-11) require the provision of first aid facilities, ambulance rooms, and, on larger plantations, hospitals. The housing provisions (Section 15) require the employer to provide "suitable accommodation" for workers and their families. The umbrella language of "suitable" is instructive: it is vague enough to permit enormous variation in interpretation and enforcement, and in practice the quality of plantation housing has often fallen far below what the word implies.

The social security provisions of the Act include maternity benefit (Section 28-33), provident fund contributions, and gratuity. The Act also requires the registration of plantations with the state government and the maintenance of registers and records, with penalties for non-compliance.

The enforcement mechanisms of the Act consist primarily of inspection by inspectors appointed by the state government, prosecution for offences, and penalties (typically fines). The penalties specified in the original Act were very modest, and even after amendments they remained relatively low, creating limited deterrent effect. The dependence on state government inspection,

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in a context where many state governments have limited inspection capacity and where the political relationships between plantation owners and state governments are close, has been a persistent weakness in the enforcement structure.

5.3 The Principal Controversies in the Application of the PLA

The Plantations Labour Act has generated a rich body of litigation, administrative controversy, and academic debate over its seven decades of existence. The principal controversies can be grouped under several heads.

The first major controversy concerns the definition of "worker" and "plantation" for the purposes of the Act. The Act defines a worker as "a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical." This definition has been the subject of considerable litigation concerning, inter alia, whether supervisory workers and clerical staff are "workers" within the meaning of the Act, whether contract workers employed through agencies are covered, and whether seasonal and temporary workers have the same rights as permanent workers.

The question of contract and agency workers has become increasingly important as plantation owners have adopted the practice of engaging workers through contractors as a means of reducing their direct employment obligations under the Act. Courts have generally taken a broad view of the concept of "employer" in this context, applying the doctrine of "principal employer" liability to hold the plantation owner responsible for compliance with the Act even where workers are engaged through contractors. But the practical enforcement of this doctrine has been inconsistent, and the use of contract labour remains a significant gap in the protective framework.

The second major controversy concerns the relationship between the cash wage and the non-cash benefits (housing, rations, medical facilities) in assessing the adequacy of total remuneration. Plantation owners have consistently argued that the non-cash benefits they provide should be counted as part of the worker's total remuneration when assessing compliance with minimum wage requirements. Workers and their representatives have argued that non-cash benefits cannot be treated as a substitute for cash wages, both because workers have no effective control over the quantity and quality of the benefits provided and because the provision of non-cash benefits by the employer perpetuates dependency relationships that undermine the worker's effective freedom.

The third major controversy concerns the provisions for housing, and particularly the implications of the employer's duty to provide housing for the legal status of workers who are terminated or who wish to leave the estate. If the employer is required to provide housing, and if there is a shortage of alternative housing in the vicinity of the estate (as is typically the case given the remote location of many plantations), then the termination of employment effectively means eviction from housing, and the worker has nowhere to go. This creates a structural trap

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that limits workers' effective freedom of movement and undermines their ability to organise for better conditions.

The fourth major controversy concerns the scope of the Act's welfare provisions and the employer's duty to maintain the quality of welfare facilities. Research has consistently documented a deterioration in the quality of estate-provided housing, creches, schools, and medical facilities since the 1970s, as the profitability of many estates declined and employers cut back on welfare expenditure. The Act's provisions require facilities to be provided but do not specify quality standards in sufficient detail to provide an effective basis for enforcement action.

5.4 The New Labour Codes and the Future of Plantation Labour Law in India

One of the most significant developments in Indian labour law in recent years is the enactment of the four new Labour Codes: the Code on Wages 2019, the Industrial Relations Code 2020, the Code on Social Security 2020, and the Occupational Safety, Health and Working Conditions Code 2020. Together, these Codes consolidate and replace 29 existing central labour laws, including the Plantations Labour Act 1951.

The consolidation of the PLA into the new Labour Codes represents a fundamental structural change in the legal framework governing plantation workers. The new Codes purport to extend and strengthen protections for plantation workers while aligning them with modern labour requirements and placing plantation labour under a unified national system.

The Code on Wages 2019 establishes a universal minimum wage floor applicable across all sectors and all forms of employment, including plantation work. This represents an important potential advance over the PLA framework, which had allowed the plantation sector to be treated as a "scheduled employment" with its own (typically lower) minimum wage. If the new minimum wage floor is set and enforced at a level adequate to provide a living wage, it would address one of the most persistent criticisms of the existing plantation labour framework.

The Occupational Safety, Health and Working Conditions Code 2020 includes specific provisions for plantation workers, retaining many of the welfare facility requirements of the PLA while expanding them in important respects. It provides for the registration of establishments, the duties of employers and employees in relation to safety and health, the appointment of safety officers, the provision of welfare facilities, and the enforcement of standards through inspection and prosecution.

The Code on Social Security 2020 extends the coverage of social security provisions to plantation workers in significant ways, including provisions for gratuity, maternity benefit, provident fund contributions, employees' state insurance, and building and other construction workers' welfare fund contributions.

However, the new Labour Codes have also attracted significant criticism from labour rights organisations, trade unions, and academic commentators. The most serious criticism is that the

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Codes weaken the special protections that plantation workers had under the PLA, particularly in relation to housing. The PLA's specific requirement that employers provide suitable accommodation for workers and their families is replaced in the new framework by more general provisions that critics argue provide weaker protection. This concern is particularly acute in the context of the Assam government's 2025 amendment to the land ceiling legislation, which purports to grant land rights to tea workers but which, as discussed above, has been criticised for failing to specify the minimum quantum of land to be granted and for excluding trade unions from the drafting process.

The PIB (Press Information Bureau) of the Government of India published a factsheet in December 2025 noting that the new Labour Codes "retain relevant existing safeguards and also expand them, aligning them with modern labour requirements, placing plantation labour under a unified national system." However, this official characterisation has been contested by the All India Plantation Workers Federation and other unions, which argue that the consolidation of the PLA into the general framework of the Labour Codes effectively dilutes sector-specific protections that reflect the distinctive vulnerabilities of plantation workers.

The constitutional validity of the new Labour Codes has been challenged in the courts on various grounds, including the argument that the elimination of sector-specific protections for plantation workers violates the constitutional guarantee of equality and the directive principles requiring the state to secure just and humane conditions of work for all workers. These challenges are pending before various High Courts and may ultimately reach the Supreme Court.

CHAPTER SIX: INTERNATIONAL LAW AND TEA: THE ILO CONVENTIONS, TRADE AGREEMENTS, AND HUMAN RIGHTS FRAMEWORKS

6.1 The International Labour Organization and Tea: Foundational Conventions

The International Labour Organization (ILO), established in 1919 as part of the post-World War I peace settlement, has been the primary international institution responsible for setting labour standards since its foundation. The ILO's corpus of conventions and recommendations covers virtually every aspect of labour relations, and a significant number of these instruments are directly relevant to the tea industry.

The foundational ILO instruments for the purposes of tea law are the "Core Conventions" (now referred to in ILO parlance as "Fundamental Principles and Rights at Work"): the Forced Labour Convention No. 29 (1930) and its 2014 Protocol; the Abolition of Forced Labour Convention No. 105 (1957); the Freedom of Association and Protection of the Right to Organise Convention No. 87 (1948); the Right to Organise and Collective Bargaining Convention No. 98 (1949); the Equal Remuneration Convention No. 100 (1951); the Discrimination (Employment and Occupation) Convention No. 111 (1958); the Minimum Age Convention No. 138 (1973); and the Worst Forms of Child Labour Convention No. 182 (1999).

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All of these instruments are directly relevant to the tea industry. The forced labour conventions address the historical and contemporary dimensions of coerced labour on plantations. The freedom of association and collective bargaining conventions protect the rights of workers to organise unions and bargain collectively, rights that have been systematically restricted in the plantation sector in many countries. The equal remuneration convention addresses the persistent gender wage gap on tea estates. The discrimination convention addresses the caste-based and ethnicity-based discrimination that shapes access to better jobs and higher wages in the plantation hierarchy. The child labour conventions address the use of children on tea plantations, both directly as workers and indirectly through the burden of unpaid care work that falls on girls whose mothers are employed in the fields.

6.2 Convention No. 101 (1952) and Convention No. 110 (1958): Plantation-Specific ILO Instruments

Of particular direct relevance to tea law are the two ILO conventions specifically designed for the plantation sector. The Plantations Convention No. 101 (1952) establishes standards for the hiring and conditions of employment of workers on plantations, including provisions on labour contracts, wages, housing, welfare facilities, freedom of association, and social security. Convention No. 110 (1958), the Plantations Convention (as revised), provides a comprehensive framework for the protection of plantation workers that was intended to supersede and improve upon Convention No. 101.

Convention No. 110 is notable for its breadth and its specificity. It covers wages, working hours, weekly rest, annual holidays with pay, maternity protection, termination of employment, housing and welfare facilities, freedom of association and collective bargaining, and labour inspection. Its provisions on housing are particularly detailed, specifying that employers on plantations must provide "suitable housing accommodation" for workers who are required or permitted to reside on the plantation, and that such housing must meet standards of construction, space, lighting, and sanitation specified by the competent authority.

The ratification record of Convention No. 110 is disappointing. As of 2024, only eleven countries have ratified it, and the major tea-producing countries of India, Bangladesh, Sri Lanka, Kenya, and China are not among them. This gap between the international standard and the ratification record of the major tea-producing countries represents a significant failure of the international regulatory framework and is an important context for understanding the inadequacy of domestic protections.

6.3 The ILO's ProGRESS Project in Bangladesh and the SOLAR Project in Laos: Recent Developments

The ILO has been active in recent years in promoting improved labour standards in the tea sector through technical assistance and development projects. Two of the most significant of these are the ProGRESS project in Bangladesh and the SOLAR (Reducing Vulnerability and Advancing Social Protection for Rural Lao Workers) project, which concluded in 2024.

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The ProGRESS (Promoting Rights, Opportunities and Growth for Equitable and Sustainable Solutions) project in Bangladesh, funded by the Government of Canada, has focused specifically on the tea sector in the Sylhet region. The project's work, particularly the tripartite dialogue organized on National Tea Day in June 2024 at Sreemangal, has highlighted the structural challenges facing tea workers in Bangladesh: discriminatory provisions in the 2006 Labour Act that limit the organizing rights of plantation workers, lack of worker awareness of their legal rights, inadequate collective bargaining, and the persistent challenges of poverty wages in the sector. The project has advocated for amendment of the Bangladesh Labour Act to address these discriminatory provisions, a position that reflects a growing consensus among labour rights advocates, workers' organisations, and international development partners.

The SOLAR project in Laos, which concluded in June 2024, focused on the situation of coffee and tea farmers and workers in Champasak, Sekong, and Salavan provinces. The project established a multi-stakeholder governance framework through a Project Advisory Committee and Provincial Working Groups, bringing together national government, local authorities, village leaders, sectoral associations, producer groups, and development partners. Its work was framed within the context of the Lao National Social Protection Strategy's goal of universal access to social protection by 2030. The project's experience illustrates both the potential of multi-stakeholder governance approaches to improving labour standards in the plantation sector and the limitations that arise from the political context, particularly in countries where freedom of association is restricted.

6.4 Human Rights Law and the Tea Supply Chain: The Business and Human Rights Framework

The UN Guiding Principles on Business and Human Rights (UNGPs), endorsed by the UN Human Rights Council in 2011, represent the most important development in international human rights law as it applies to corporate conduct in the twenty-first century. The UNGPs are built around a "Protect, Respect, Remedy" framework: states have a duty to protect against human rights abuses by businesses; businesses have a responsibility to respect human rights; and both states and businesses must ensure access to effective remedies for victims of human rights abuses.

The application of the UNGPs to the tea industry has been the subject of growing attention from human rights organisations, investors, and companies themselves. The Tea and Human Rights briefing published by the Business and Human Rights Resource Centre documents a range of human rights issues in the tea supply chain, including labour rights violations, land rights disputes, freedom of association restrictions, gender-based violence, and child labour. Research published by Oxfam and other development organisations has shown that premium tea brands marketed in wealthy countries often rely on supply chains in which human rights violations are endemic.

The development of mandatory human rights due diligence (mHRDD) legislation in Europe, particularly the German Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz)

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which came into force in 2023, the French Duty of Vigilance Law (Loi de Vigilance) enacted in 2017, and the EU Corporate Sustainability Due Diligence Directive (CS3D) adopted in 2024, represents a significant shift in the international legal framework. These instruments require companies operating in or importing from countries with poor labour rights records to conduct human rights due diligence across their supply chains and to take action to prevent, mitigate, and remediate human rights violations.

For the tea industry, these developments have potentially transformative implications. European importers and retailers of tea are now, or will be, legally required to assess and address human rights risks in their supply chains, including risks associated with plantation labour conditions in South Asia and Africa. This creates powerful commercial incentives for improvement in labour standards at the source, supplementing the limited effectiveness of domestic regulation in producing countries.

6.5 Trade Law and Tea: WTO, Geographical Indications, and Market Access

The legal framework governing the global trade in tea is complex and multidimensional. At the multilateral level, the World Trade Organization (WTO) agreements, particularly the Agreement on Agriculture, the General Agreement on Trade in Services, and the Agreement on Trade-Related Intellectual Property Rights (TRIPS), establish the basic framework within which bilateral and regional trade agreements must operate.

The most legally interesting aspect of tea in international trade law is the law of geographical indications (GIs). A geographical indication is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. The most famous GI in the tea world is Darjeeling Tea, which became the first food product in India to receive a Geographical Indication tag under the Geographical Indications of Goods (Registration and Protection) Act, 1999. Darjeeling tea has also been registered as a GI in various foreign markets, and its protection abroad is subject to the provisions of the TRIPS Agreement and bilateral trade agreements.

The economic and legal significance of the Darjeeling GI is substantial. Darjeeling tea commands premium prices on international markets precisely because of its association with a specific origin and the unique flavour profile (often described as a "muscatel" character) that results from the combination of altitude, soil, climate, and cultivation practices specific to the Darjeeling hills. The legal protection of this association against misappropriation by producers of inferior teas from other regions who attempt to benefit from the Darjeeling name is both an economic interest of the producers and a consumer protection concern.

The Tea Board of India, which administers the Darjeeling GI, has been actively involved in prosecuting cases of misuse of the Darjeeling name in domestic and foreign markets. These enforcement actions raise interesting questions about the relationship between intellectual property law, agricultural regulation, and the rights of smallholder farmers who grow Darjeeling tea but do not always benefit proportionally from the premium that the GI commands.

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CHAPTER SEVEN: THE TEA BOARD: GOVERNANCE, REGULATORY FUNCTIONS, AND CONTROVERSIES

7.1 The Tea Board of India: History, Structure, and Mandate

The Tea Board of India is one of the oldest commodity boards in Asia, established under the Tea Act, 1953 (Act No. 29 of 1953). It is a statutory body operating under the Ministry of Commerce and Industry, Government of India, and is headquartered in Kolkata. Its mandate covers a wide range of functions: the promotion and development of the tea industry, the licensing of tea dealers, the regulation of tea planting and processing, the development of tea research, and the promotion of Indian tea in domestic and international markets.

The Tea Act, 1953, which continues to be the primary piece of legislation governing the Tea Board's structure and functions, was enacted in the context of the post-independence project of rationalising and developing India's plantation sector. The Act created the Tea Board as a body with both promotional and regulatory functions, a combination that has been the source of ongoing controversy about potential conflicts of interest.

The composition of the Tea Board reflects its origin as a multi-stakeholder body. It includes representatives of growers (large estates and smallholders), manufacturers, dealers, trade unions, consumers, and the central and state governments. This multi-stakeholder composition was designed to ensure that the Board's decisions reflected the interests of all parties in the industry, but critics have argued that the representation of grower and manufacturer interests is structurally dominant over the representation of worker interests.

The Tea Board's regulatory functions include the granting of licences for the cultivation, manufacture, and dealing in tea; the registration of tea estates; the collection of statistics; and the administration of the tea cess (a levy on tea production that finances the Board's activities). The Board also manages a system of development subsidies and loans for the replanting and modernisation of tea gardens, which has been an important instrument of agricultural policy in the Darjeeling, Dooars, and Terai regions.

7.2 Tea Board Governance in Bangladesh, Sri Lanka, and Kenya: Comparative Analysis

The Tea Board governance model established in India has been replicated with variations in Bangladesh, Sri Lanka, and Kenya. The Bangladesh Tea Board, established under the Bangladesh Tea Board Act of 1977 (as amended), has a similar multi-stakeholder composition and comparable promotional and regulatory functions. However, the Bangladesh Board operates in a very different economic context: Bangladesh's tea industry is concentrated in the Sylhet region (particularly the Moulvibazar and Habiganj districts), and the industry faces growing challenges from both rising costs and declining yields in ageing gardens.

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The Tea Board of Sri Lanka (PQAS, the Sri Lanka Tea Board), established under the Sri Lanka Tea Board Law of 1975, has a particularly significant role in quality regulation, including the certification of Ceylon tea under the famous lion logo. The Sri Lanka Tea Board administers the export cess, manages a system of quality inspection for exported tea, and promotes Sri Lanka tea in international markets. The legal framework governing the auction of tea at the Colombo Tea Auction, which is one of the largest tea auctions in the world, includes important provisions about price discovery, broker regulation, and the rights of buyers and sellers that raise interesting questions in the law of commercial transactions.

The Tea Board of Kenya (now incorporated into the Agriculture and Food Authority under the Agriculture and Food Authority Act, 2013) has undergone significant institutional change in recent years as part of a broader restructuring of Kenya's agricultural regulatory framework. The merging of the Tea Board's functions into the wider Agriculture and Food Authority has been controversial, with some stakeholders arguing that the tea sector's distinctive needs and challenges are better served by a sector-specific regulatory body than by a multi-sector authority that has to balance the interests of many different agricultural commodities.

7.3 Controversies in Tea Board Governance: Corruption, Capture, and Democratic Accountability

The governance of tea boards in South Asia and Africa has been the subject of recurring allegations of corruption, regulatory capture, and inadequate accountability. These controversies raise important questions in administrative law about the design of regulatory institutions, the conditions for effective regulatory independence, and the mechanisms by which regulatory bodies can be held accountable to the public interest rather than to the sectional interests of those they regulate.

Regulatory capture, the process by which a regulatory body comes to serve the interests of the regulated industry rather than the public interest it was created to protect, is a well-documented phenomenon in the economics of regulation literature. For tea boards, the risk of capture is particularly acute because of the political influence of large plantation owners and their associations, the technical expertise that industry insiders bring to regulatory deliberations (and the corresponding information asymmetry that disadvantages worker representatives and consumer advocates), and the revolving door between regulatory positions and industry employment.

The Tea Board of India has been the subject of allegations of favouritism in the allocation of development subsidies and replanting assistance, of inadequate enforcement of quality standards, and of insufficient attention to the interests of smallholder farmers relative to large estates. These allegations have generated demands for greater transparency in Board decision-making, stronger representation of smallholder and worker interests in governance, and more independent oversight of the Board's activities.

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In Sri Lanka, controversies around the governance of the Tea Board have been particularly acute in the context of the country's broader governance crisis. The political economy of tea in Sri Lanka is complex: the industry is vital to the country's export earnings, and both the government and the plantation companies have strong interests in managing its governance in ways that may not always align with the interests of estate workers or smallholder farmers.

CHAPTER EIGHT: THE RIGHTS OF TEA WORKERS: WAGES, WELFARE, ASSOCIATION, AND DIGNITY

8.1 The Wage Problem in Tea Law: A Persistent Crisis

The most persistent and most serious problem in tea labour law is the gap between the wages paid to tea workers and the wages necessary for a dignified human existence. This problem is not confined to any single country; it is a structural feature of the global tea industry that reflects the combination of low global tea prices (themselves a function of oversupply and the exercise of buyer power by large retail companies), the political marginalisation of tea workers in most tea-producing countries, and the structural incentives of the plantation system that favour the substitution of non-cash benefits for cash wages.

In India, as noted above, daily wages on tea estates in Assam and West Bengal stand at approximately Rs. 232 and Rs. 250 respectively as of 2024-25, figures that are significantly below the statutory minimum wages for comparable categories of agricultural or unskilled labour in those states and that fall dramatically short of any living wage calculation. The Assam Tea Tribes Development Authority has estimated that a family of four on a tea estate requires a minimum of Rs. 450 to 500 per day to meet its basic needs, nearly double the current estate wage.

The legal dimension of this wage problem is multifaceted. As noted in the discussion of Article 21 jurisprudence above, the payment of wages below the constitutional standard of a living wage may constitute a violation of the constitutional right to life. More specifically, the failure to pay the statutory minimum wage is a criminal offence under the Minimum Wages Act of 1948 (which has now been folded into the Code on Wages 2019). The question is whether enforcement mechanisms are adequate to make these legal requirements effective in practice.

The enforcement architecture of minimum wage law in India relies primarily on the inspection system administered by the state labour departments and the Plantation Labour Inspectorate. Research has consistently documented the inadequacy of this inspection system: too few inspectors, too many workplaces to cover, and too close a relationship between inspectors and plantation management in areas where the plantation industry dominates the local economy. The result is that minimum wage violations in the plantation sector are endemic and rarely prosecuted.

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8.2 The Right to Organise and Collective Bargaining: Theory, Practice, and the Tea Plantation

Freedom of association, including the right of workers to form and join trade unions and to engage in collective bargaining, is a fundamental right under international labour standards and a constitutionally guaranteed right in all the major tea-producing countries. Yet the practical exercise of this right on tea plantations is restricted in ways that reflect the structural features of the plantation system.

The physical isolation of plantations from urban centres, the concentration of workers in tied housing provided by the employer, the employer's control over access to the estate, the illiteracy and lack of legal knowledge of many workers, and the employer's power to terminate employment (and with it the right to housing) as a response to union activity: these are structural features of the plantation system that undermine the effective exercise of freedom of association in ways that formal legal protections do not adequately address.

In India, the plantation sector is covered by the Industrial Disputes Act of 1947 (now replaced by the Industrial Relations Code 2020), which provides for the recognition of trade unions and the mechanism of collective bargaining. However, the history of industrial relations in the tea industry is characterised by management dominance, company-sponsored unions that serve employer interests rather than worker interests, and the systematic victimisation of independent union activists.

The 2024-2025 period has seen intensifying labour unrest in the South Asian tea sector, particularly in Assam and West Bengal, as workers have pushed back against stagnant wages in the face of rising living costs and the inflationary pressures of the post-COVID economy. The legal framework for managing these industrial disputes, including the provisions of the Industrial Relations Code 2020 on strikes, lockouts, and mandatory conciliation, has been tested by this wave of unrest, and its adequacy has been questioned by both workers and employers.

8.3 Child Labour in the Tea Industry: Legal Framework and Reality

The employment of children in tea cultivation and processing is prohibited under international law (ILO Convention No. 182 and Convention No. 138), under the domestic legislation of all major tea-producing countries, and under the buyer codes of conduct of most major international tea brands. Yet the reality of child labour in the tea industry, particularly in the form of children working alongside their parents on the plucking fields, of children performing agricultural tasks during school holidays, and of children engaged in domestic work that frees their parents to work on the estate, remains a significant concern.

The legal analysis of child labour in the tea context requires attention to the distinction between the forms of child labour that are clearly and unambiguously prohibited (hazardous work, full-time work that interferes with schooling, the worst forms of child labour as defined in ILO Convention No. 182) and the more complex grey areas (helping parents with light agricultural

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tasks, seasonal work during school holidays, domestic work within the household). This distinction matters both for enforcement purposes and for the design of effective interventions.

The underlying causes of child labour in tea-growing communities are primarily economic: when adult wages are insufficient to meet the family's basic needs, children's contributions to the household income (whether through paid work or through substituting for parental domestic work) become economically necessary. Any effective legal strategy for eliminating child labour in the tea sector must therefore address the root cause of poverty wages, not merely the symptom of child employment.

The Occupational Safety, Health and Working Conditions Code 2020 in India continues the prohibition of child labour in plantations, and the Child and Adolescent Labour (Prohibition and Regulation) Act of 1986 (as amended in 2016) provides the broader framework for prohibiting and regulating child labour across sectors. The 2016 amendment extended the prohibition of child labour (below 14 years) to all occupations and processes (with limited exceptions for work by children in family enterprises and in audio-visual entertainment), and extended the prohibition of adolescent labour (14-18 years) to hazardous occupations including those involving exposure to toxic substances.

8.4 Gender, Power, and the Law on Tea Plantations

Women workers on tea plantations face a distinctive set of legal challenges that arise from the intersection of their status as workers, as women, and as members of socially marginalised communities. These challenges include the gender wage gap, the specific risks of sexual harassment and gender-based violence in the isolated plantation environment, the inadequacy of maternity protections in practice, the burden of unpaid care work, and the practical barriers to accessing legal remedies.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the POSH Act) in India requires all employers, including plantation employers, to establish Internal Complaints Committees (ICCs) for the handling of sexual harassment complaints and to provide for the investigation and redress of such complaints. Research has documented significant gaps in the implementation of the POSH Act on tea estates: many estates either have not established ICCs as required, or have established nominal ICCs that are not independent of management and do not effectively protect complainants.

The maternity benefit provisions of the Maternity Benefit Act of 1961 (as extended to plantation workers by the specific provisions of the PLA and its successor legislation) provide for paid maternity leave, nursing breaks, and certain other protections for women workers who are pregnant or nursing. The Maternity Benefit (Amendment) Act of 2017 extended paid maternity leave from 12 to 26 weeks for women workers. However, the implementation of these provisions on tea estates has been inconsistent, and many women workers are unaware of their rights or face practical barriers to claiming them.

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The gender dimension of tea law extends beyond the immediate employer-employee relationship to the broader structures of the plantation community. The organisation of the plantation household, in which the man of the household typically holds the official employment relationship with the estate while the woman (and often children) work as dependants on his "task," is a structural feature of the plantation system that has important legal implications for women's independent entitlement to wages, welfare benefits, and social security. The reform of this system, to recognise women workers as independent right-holders rather than dependants of their husbands' employment relationships, is a priority for feminist tea law scholars and advocates.

CHAPTER NINE: LAND RIGHTS, CUSTOMARY TENURE, AND THE LEGAL GEOGRAPHY OF THE TEA PLANTATION

9.1 Land Law and the Plantation: Introduction

The legal framework governing land in tea-growing regions is one of the most complex and contested areas of tea law. It involves the intersection of colonial land law, post-colonial constitutional guarantees, statutory land reform, customary tenure systems, and the specific provisions governing plantation land leases. It also involves some of the most fundamental questions of political philosophy: who owns the land, on what basis, and subject to what obligations toward those who work it and those whose communities it sustains?

The physical geography of tea cultivation intersects with the legal geography of land tenure in ways that generate persistent tensions. Tea is a perennial crop: once planted, a tea bush can remain productive for a hundred years or more with proper management. This biological fact means that the land under tea cultivation is not available for alternative uses during the productive life of the plantation, and that decisions about land use in the tea sector have consequences that extend far beyond any individual agricultural season. It also means that the capital investment in tea cultivation is very long-term, creating legitimate interests in legal security for plantation operators that must be weighed against the interests of workers and communities.

9.2 The Colonial Land Grant System and Post-Colonial Tenure Reform

As discussed in Chapter Two, the colonial land grant system in Assam and other tea-growing regions was built on the appropriation of "waste land" and its grant to planters under long-term leases. The post-independence land reform movement sought to address the inequities of the colonial land system through a variety of mechanisms: ceiling legislation that limited the area of land that any individual or entity could own, abolition of zamindari (landlord) intermediaries, and redistribution of ceiling surplus land to the landless and the poor.

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However, the land reform legislation in most tea-growing states specifically exempted plantation land from the application of ceiling limits, on the grounds that plantations were productive enterprises whose fragmentation would harm agricultural production and employment. This exemption has been deeply controversial. Critics have argued that it reflects the political influence of plantation owners and that it perpetuates the extreme concentration of land in the plantation sector at the expense of the landless communities whose labour sustains that sector.

The Assam Fixation of Ceiling on Land Holdings (Amendment) Act, 2025, discussed above, represents one of the most recent and most contentious legislative interventions in this space. The 2025 amendment purports to provide land rights to tea workers in Assam, but its critics argue that the delegation of the determination of land quantum to future executive notifications, the exclusion of trade unions from the drafting process, and the discretionary character of the benefit grant make it an "undefined promise" rather than a genuine legal entitlement.

The jurisprudential analysis of this amendment illuminates a fundamental tension in the design of land reform legislation. On one side is the interest of the state in retaining flexibility to implement land distribution in ways that reflect ground conditions, fiscal constraints, and administrative capacity. On the other is the interest of workers in having clear, legally enforceable rights that they can invoke in court if necessary. The transformation of a collective demand (articulated by trade unions over decades of struggle) into a discretionary benefit granted by the state represents, in the critical analysis of scholars like those writing in the Nenow Opinion pieces of December 2025, a fundamental subversion of the rights-based approach to land reform.

9.3 The Bundle of Rights: Property Theory and Tea Land Tenure

The analysis of land rights in the tea context benefits from the theoretical framework of property as a "bundle of rights," a concept associated with Wesley Hohfeld's analysis of legal relations and developed in the context of property theory by scholars like Grey, Honoré, and others. The bundle of rights concept holds that "property" is not a single right but a cluster of different legal relations, including the right to use, the right to exclude others from use, the right to alienate (sell or transfer), the right to the income generated by the property, and the right against interference by others including the state.

Applied to tea plantation land, this framework reveals the complex layering of rights and interests involved. The plantation owner typically holds most of the core elements of the property bundle under the lease or freehold title granted under colonial or post-colonial land law. Workers hold limited rights of occupation of the housing provided on the estate, but these rights are derivative of their employment relationship and terminate with employment. Indigenous communities in the vicinity of the estate may hold customary rights of use over certain areas of the estate, particularly forest areas, rights that were not extinguished by the colonial land grant but that have often been ignored or suppressed in practice.

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The reform of this property structure to give tea workers more secure and substantive property rights is the subject of ongoing policy debate in India, Sri Lanka, and elsewhere. The arguments for worker land rights include: the long-term labour investment of workers' families in the land; the workers' effective dependence on the estate for housing and livelihood, which creates an interest analogous to property even in the absence of formal title; the constitutional directive to promote economic justice; and the international human rights framework on land and housing.

The arguments against worker land rights, advanced primarily by plantation owners and some policy economists, include: the risk of fragmentation of productive agricultural units; the potential for land to be sold out of agricultural use; the complexity of administering land grants in estates that may cover large areas of steep hill terrain; and the argument that secure and well-paid employment provides better economic security than land ownership for workers who lack the capital to develop independent farming operations.

This debate reflects deeper theoretical disagreements about the relationship between property rights, economic security, and human development. Hernando de Soto's influential argument in "The Mystery of Capital" (2000) that formal property rights are the key to economic development for the poor has been both influential and extensively criticized. Applied to the tea context, it raises the question of whether formalising workers' land rights would genuinely empower them or whether, in the absence of complementary supports (access to credit, technical assistance, market access), formal land titles would merely expose workers to the risk of land loss through debt and predatory acquisition.

CHAPTER TEN: EDUCATION, TRAINING, AND THE PROFESSIONAL FRAMEWORK OF TEA LAW

10.1 The Education Deficit on Tea Plantations: Legal Obligations and Reality

The right to education is both a constitutional guarantee and a fundamental human rights norm that is directly implicated in the conditions of tea plantation communities. Article 21A of the Indian Constitution (inserted by the 86th Constitutional Amendment Act, 2002) guarantees free and compulsory education for all children between the ages of 6 and 14 years. The Right to Education Act of 2009 (the RTE Act) gives effect to this constitutional guarantee and includes specific provisions applicable to children employed in plantation contexts.

The educational facilities available to children of tea workers have historically been provided by the plantation itself, through estate schools established under the Plantations Labour Act. The quality of these estate schools has been a matter of serious concern: research has consistently documented inadequate infrastructure, undertrained teachers, high dropout rates (particularly after the primary level), and curricula that do not adequately prepare children for opportunities beyond the plantation.

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The RTE Act's requirement that all children have access to quality education in a school within one kilometer of their residence creates a legal obligation that is difficult to enforce in the isolated locations of many tea estates, where government schools may be distant and where the estate school may be the only practical option available. The interaction between the RTE Act's requirements and the PLA's provisions on estate schools has been a source of administrative complexity and legal uncertainty.

The education gap in tea plantation communities is not merely a problem of access to primary schooling. It extends to higher education, vocational training, and the development of the skills and knowledge that enable economic mobility beyond the plantation. The low levels of educational attainment in tea worker communities, rooted in historical denial and persistent underfunding, create a form of structural disadvantage that perpetuates dependence on plantation employment across generations.

10.2 Professional Legal Education and the Needs of the Tea Sector

The legal profession's engagement with the tea sector has historically been limited and uneven. Plantation companies have access to sophisticated legal counsel, including large law firms with expertise in corporate, commercial, and labour law. Workers and smallholder farmers, by contrast, typically lack access to any legal representation and have limited knowledge of their legal rights. Legal aid systems in tea-growing states are underfunded and unable to provide meaningful access to justice for the large numbers of workers who need it.

The development of specialised legal education and training in tea law is a relatively recent and still underdeveloped area. Law schools in India, Bangladesh, Sri Lanka, and Kenya generally do not offer dedicated courses on agricultural law or plantation labour law, and the theoretical foundations of the field are not systematically taught. The result is a legal profession that is generally ill-equipped to provide specialist advice on the distinctive legal problems of the tea sector.

This textbook is, in part, a response to this educational gap. By providing a systematic and intellectually rigorous treatment of the law governing the tea sector, it aims to contribute to the development of a body of specialist legal knowledge and professional practice that can serve the needs of all stakeholders in the industry: workers, farmers, companies, regulators, and civil society organisations.

10.3 Practitioners in Tea Law: The Emerging Professional Community

The practitioner community in tea law is diverse and growing. It includes corporate lawyers advising plantation companies and tea trading companies on employment law, regulatory compliance, intellectual property, and commercial transactions; labour lawyers representing workers' unions in industrial disputes and litigation; public interest lawyers bringing constitutional challenges to inadequate labour protections; administrators working in Tea Boards and plantation labour departments; academics researching and writing on tea law and policy;

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NGO and civil society professionals engaged in advocacy and workers' rights education; and, increasingly, technology lawyers and data privacy specialists engaged with the novel legal questions arising from the digitalisation of the tea industry.

The professional development of this practitioner community requires not only technical legal knowledge but also a grounding in the history, economics, and social context of the tea industry. A lawyer who understands only the formal content of the Plantations Labour Act (or its successors), without understanding the colonial history that shaped it, the political economy that constrains its enforcement, and the philosophical frameworks that allow its adequacy to be critically evaluated, is not well equipped to serve their clients effectively, whoever those clients may be.

The emergence of specialised bar associations, practice groups, and professional networks focused on agricultural and plantation law in South Asia is a positive development. The Legal Aid and Services Authority (DLSA and SLSA) networks in India have been developing greater capacity in the area of plantation labour rights, and civil society organisations like the Planters' Association, the Indian Tea Association, and the various trade unions have legal cells that provide specialist advice and advocacy.

CHAPTER ELEVEN: TECHNOLOGY, INNOVATION, AND THE EMERGING LAW OF DIGITAL TEA GOVERNANCE

11.1 Precision Agriculture and the Legal Questions of Agricultural Data

The application of precision agriculture technologies to tea cultivation, including remote sensing, satellite imagery, drone surveillance of tea fields, soil sensors, weather monitoring systems, and AI-based prediction models, is generating a new set of legal questions about data ownership, privacy, and the governance of agricultural information systems.

Tea estates, particularly the larger ones in India, Kenya, and Sri Lanka, are increasingly using data from multiple sources to optimise their cultivation practices: satellite imagery to monitor the health of tea bushes and identify stress, soil sensors to guide irrigation and fertilisation, weather stations to predict frost risk and disease outbreak, and yield mapping systems to track production across different sections of the estate. The legal questions this generates include: who owns the data generated by these systems, particularly data generated by or about workers? What privacy protections apply to workers' personal data collected through digital labour management systems? Who has access to the data, and on what terms? What obligations do employers have to share data with workers or their representatives?

The legal framework governing agricultural data in India is still in formation. The Personal Data Protection Act (now the Digital Personal Data Protection Act, 2023) provides the primary framework for the protection of personal data, including the personal data of workers collected

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through digital labour management systems. The application of this Act to the plantation context raises interesting questions about the consent of workers to the collection and processing of their personal data, given the power imbalance between employer and employee and the practical difficulties workers face in refusing to consent.

11.2 Blockchain Traceability and the Law of Tea Supply Chains

Blockchain technology is being deployed in the tea industry as a mechanism for supply chain traceability, enabling the tracking of tea from garden to cup with a degree of transparency and verifiability that was previously impossible. Several initiatives using blockchain traceability for tea have been piloted in India, Kenya, and China, and the technology is being championed by some major international tea companies as a tool for demonstrating the authenticity and sustainability credentials of their products.

The legal implications of blockchain traceability for tea are significant and largely unexplored. From the perspective of intellectual property law, blockchain records could provide a secure and tamper-proof basis for the verification of geographical indication claims, reducing the scope for fraud and misrepresentation in the marketing of premium teas. From the perspective of supply chain liability, blockchain records create a more detailed and verifiable evidentiary trail that could be used in litigation arising from product liability claims, food safety violations, or human rights due diligence assessments.

From the perspective of workers' rights, blockchain traceability raises complex questions. On one hand, it could empower workers by creating transparent records of their productivity and wages, making wage fraud more difficult and providing an evidential basis for wage claims. On the other hand, it could increase the surveillance and monitoring of workers in ways that undermine their privacy and autonomy, and the data generated could potentially be used by employers to discipline or dismiss workers who fail to meet productivity targets recorded on the blockchain.

The governance of blockchain systems in the tea supply chain also raises questions about power and access. If the blockchain infrastructure is controlled by large companies at the top of the supply chain, they will have the ability to determine what data is recorded, how it is interpreted, and who has access to it. Smallholder farmers and estate workers at the bottom of the supply chain, who lack the technical knowledge and the negotiating power to influence these decisions, risk being subjected to systems of monitoring and control that serve others' interests rather than their own.

11.3 Artificial Intelligence and Labour Management in the Tea Industry

The application of artificial intelligence to labour management in the tea industry is at an early stage, but the trajectory of development is clear. AI systems are being developed and piloted for the automated monitoring of worker attendance, the measurement of worker productivity (through image recognition systems that measure the quantity of green leaf plucked), the

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management of worker schedules, and the prediction of labour supply needs. In 2024 and 2025, several large tea companies in India and Kenya announced pilot programmes for AI-assisted quality grading of tea, a function previously performed by trained human tasters.

The legal implications of AI in tea labour management are far-reaching. The use of AI for performance monitoring raises questions under both privacy law and labour law. Under the Digital Personal Data Protection Act, 2023 in India, the processing of workers' biometric data (facial recognition, fingerprint scanning) and productivity data by AI systems would require consent and appropriate data protection measures. The adequacy of "consent" given by workers in a context of employment dependency is, as discussed above, a fundamental concern.

From a labour law perspective, the use of AI in disciplinary and dismissal decisions raises questions about procedural fairness and the right to a hearing. If a worker is dismissed on the basis of an AI system's assessment of their productivity, do they have the right to understand the basis of that assessment, to challenge its accuracy, and to have a human decision-maker review the AI's output before a final decision is made? These questions are not yet clearly resolved in the Indian or Kenyan legal frameworks, and they are the subject of active legal development in the European Union (particularly through the EU Artificial Intelligence Act of 2024) and in other jurisdictions.

11.4 Climate Change, Environmental Law, and the Future of Tea

Tea is one of the agricultural commodities most acutely affected by climate change. The specific climatic conditions required for the production of high-quality tea, including cool temperatures, adequate and well-distributed rainfall, specific diurnal temperature ranges, and moderate humidity, are precisely the conditions that are most vulnerable to disruption by rising global temperatures and changing precipitation patterns. Research published in 2023 and 2024 by the International Centre for Tropical Agriculture and other institutions has projected significant declines in the areas suitable for tea cultivation in South Asia and Africa under business-as-usual climate scenarios by mid-century.

The legal implications of climate change for the tea industry are manifold. Environmental law frameworks governing pesticide use, water management, soil conservation, and greenhouse gas emissions apply to tea cultivation, but their enforcement in the plantation sector has been inconsistent. The National Green Tribunal in India has adjudicated several cases involving environmental violations on tea estates, including the illegal encroachment on forest land, the disposal of factory effluents in water bodies, and the use of prohibited pesticides.

Climate adaptation in the tea industry raises specific legal questions about the rights and obligations of growers, workers, and governments in responding to climate impacts. When a tea estate becomes unviable because of climate change, what happens to the workers? Do they have legal rights to notice, to retraining, to alternative employment? The closure of tea estates and the abandonment of cultivation by workers facing climate-driven yield declines are emerging

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problems in South India and parts of Kenya that the existing legal framework is poorly equipped to address.

CHAPTER TWELVE: THEORIES OF JUSTICE AND THE REFORM OF TEA LAW: TOWARDS A NORMATIVE FRAMEWORK

12.1 The Inadequacy of Incremental Reform

The preceding chapters have mapped the major dimensions of tea law: its history, its jurisprudential foundations, its statutory framework, its constitutional setting, its international dimensions, its governance structures, and its emerging technological challenges. A consistent theme running through this analysis is the inadequacy of the existing legal framework to protect the rights and promote the interests of the most vulnerable people in the tea system, the workers who grow and pick the leaf.

This inadequacy is not primarily a technical problem. It is not, in the first instance, a matter of badly drafted legislation or insufficient regulatory resources, though both of those are real issues. It is a structural problem that reflects the historical origins of the plantation system in colonial expropriation and coerced labour, the persistent political marginalisation of tea workers, and the global economic dynamics that drive down tea prices and constrain the capacity of producing-country governments to mandate and enforce adequate labour standards.

Incremental reform of the kind that has characterised the history of tea labour legislation (the gradual amelioration of the worst provisions of the penal contract system, the extension of minimum wage protections, the expansion of welfare facility requirements) has improved conditions at the margins but has not addressed the structural roots of the problem. What is needed, the argument of this text maintains, is a more fundamental rethinking of the legal framework, informed by a clear normative vision of what a just tea industry would look like.

12.2 A Rights-Based Approach to Tea Law Reform

The rights-based approach, which draws on international human rights law, constitutional guarantees, and the moral philosophy of rights, provides one powerful normative framework for tea law reform. On this approach, the starting point for evaluating and reforming the legal framework is the full catalogue of rights that tea workers hold as human beings and as workers, and the obligation of the state and of private actors to respect, protect, and fulfil those rights.

The rights-based approach has both procedural and substantive dimensions. Procedurally, it requires that workers have meaningful participation in the design of the legal framework that governs their conditions, including through free and independent trade unions that can engage in genuine collective bargaining. Substantively, it requires that the legal framework guarantee the specific rights identified in international labour standards and human rights instruments: freedom

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of association, the right to a living wage, safe and healthy working conditions, non-discrimination, maternity protection, access to education, the right to housing, and the right to land.

The rights-based approach has been adopted by a growing number of international development organisations, NGOs, and UN agencies as the preferred framework for addressing development challenges including labour rights in agriculture. Its application to tea law reform has been advocated by organisations including the ILO, Oxfam, Anti-Slavery International, and the Ethical Tea Partnership.

12.3 Political Economy Analysis and the Constraints on Reform

Any realistic account of tea law reform must take seriously the political economy constraints that limit the effectiveness of rights-based advocacy. The political economy of the tea industry in South Asia and Africa is characterised by significant asymmetries of power and information between plantation owners (typically well-organised, well-funded, and politically connected) and tea workers (typically poorly organised, poorly funded, and politically marginalised). These asymmetries influence not only the content of legislation but its enforcement.

The role of foreign capital in the tea industry adds an additional dimension to the political economy analysis. Many of the largest tea companies in the world are multinational corporations with operations across multiple countries and the ability to shift production or sourcing if regulatory costs in any one country become too high. This "regulatory competition" dynamic can create a "race to the bottom" in which governments in tea-producing countries resist improving labour standards for fear of losing investment or export markets.

Counter-dynamics also exist. The growing consumer consciousness in wealthy importing countries about the ethics of tea supply chains, reflected in the growth of Fairtrade certified tea, the development of human rights due diligence legislation in Europe, and the increasing scrutiny by institutional investors of ESG (Environmental, Social, and Governance) performance in tea companies, creates market pressures for improved labour standards that supplement (and sometimes exceed) the pressures created by domestic regulation.

The most promising framework for overcoming these political economy constraints may be a combination of strengthened domestic legal frameworks (particularly in relation to freedom of association and collective bargaining, which would allow workers to advocate for themselves) with international trade and investment frameworks that create real consequences for persistent violations of labour standards. The GSP+ (Generalised Scheme of Preferences Plus) arrangements of the European Union, which extend preferential trade terms to countries that ratify and implement a range of international conventions including ILO core conventions, provide one such linkage between trade policy and labour standards that has been used to promote improvements in Sri Lanka and Bangladesh.

12.4 Towards a Comprehensive Theory of Tea Law: Synthesis and Prospectus

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The jurisprudential analysis developed in this Part One yields a comprehensive theoretical framework for understanding and reforming tea law. This framework draws on multiple philosophical traditions, each of which contributes something essential to the whole.

From natural law theory, it takes the insight that there are minimum standards of human dignity that no legal framework, however formally constituted, can legitimately deny to workers or to anyone else. These standards include freedom from forced labour, the right to a living wage, the right to adequate shelter, and the right to form associations for the advancement of one's interests.

From legal positivism, it takes the insistence on precision in the identification of legal obligations and the importance of clear, enforceable rules that can be applied consistently and predictably. The positivist concern with the rule of law, with the supremacy of clearly defined and publicly known legal norms over arbitrary authority, is directly relevant to the situation of tea workers who are typically subject to the unconstrained discretion of plantation managers rather than to clearly defined and effectively enforced legal rules.

From Dworkinian interpretivism, it takes the principle that legal interpretation should aim to render the legal system as a whole as just and coherent as possible, drawing on the best moral principles available to make sense of the existing body of law. Applied to tea law, this suggests an interpretive approach that reads protective legislation broadly, in line with the constitutional commitments to dignity and equality, rather than narrowly, in line with the preferences of those who benefit from the status quo.

From critical legal studies and post-colonial theory, it takes a sustained scepticism about the neutrality of law and the awareness that formal legal frameworks can mask and perpetuate structures of power and exploitation. This critical awareness is essential for avoiding the trap of "legal formalism" that mistakes the formal existence of protective legislation for actual protection.

From the capabilities approach, it takes the insistence that the adequacy of legal frameworks must be evaluated not by their formal content but by the real freedoms they create for those they purport to protect. The question is always: does this law enable tea workers to live lives they have reason to value?

And from political theory, in both its Rawlsian liberal and its critical political economy variants, it takes a concern with the distribution of power and resources in the tea industry and a commitment to designing legal and institutional frameworks that make that distribution fairer and more accountable.

CONCLUSION TO PART ONE: THE LEAF, THE LAW, AND THE LONG STRUGGLE FOR JUSTICE

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Part One of this textbook has traversed a great deal of territory: from the ancient tea regulatory systems of Tang Dynasty China to the most recent legislative developments in Assam and Bangladesh; from the philosophical frameworks of Aquinas and Locke to the jurisprudential theories of Sen, Rawls, and Dworkin; from the brutal coercion of the colonial penal contract system to the sophisticated (and still insufficient) protections of the new Indian Labour Codes; from the constitutional jurisprudence of the Indian Supreme Court to the international frameworks of the ILO and the UN Guiding Principles on Business and Human Rights.

The central argument that has emerged from this traversal can be stated simply: the law of the tea plantation has been, historically, an instrument of exploitation as much as an instrument of protection, and while it has been progressively reformed over the past century, it remains structurally inadequate to protect the rights and promote the interests of the workers upon whose labour the entire industry depends. This inadequacy is not primarily a technical or administrative failure, though it is partly that. It is primarily a political failure, reflecting the persistent marginalisation of tea workers from the political processes that determine the content and enforcement of the law.

The remedy for this failure is not simply better legislation, though better legislation is necessary. It is a fundamental transformation of the power relations that determine who shapes the law and for whose benefit. That transformation requires, above all, the strengthening of tea workers' capacity to organise and advocate for themselves: free and independent trade unions, effective collective bargaining, meaningful participation in the governance of the Tea Boards and other regulatory bodies, and access to legal education and legal representation.

But it also requires something more: a shift in the philosophical and theoretical foundations of tea law itself, away from the colonial inheritance of law as an instrument of production discipline and toward a genuinely rights-based framework in which the law of the plantation is evaluated not by whether it serves the interests of capital but by whether it enables every person within its reach to live a life of dignity, security, and freedom.

The leaf that goes into a cup of tea has passed through many hands, across many legal jurisdictions, shaped by many bodies of law, and carrying with it the accumulated history of colonial extraction, post-colonial reform, and continuing struggle. The study of tea law is, ultimately, the study of that history and that struggle, and the contribution of legal scholarship to its just resolution.

Part Two of this textbook will proceed to examine in detail the specific substantive provisions of tea labour law, including the detailed analysis of wage law, working time law, occupational safety and health, social security, and the law of termination of employment and estate closure, in the major tea-producing jurisdictions. Part Three will address the commercial law of tea, including intellectual property, quality regulation, auction law, and international trade. Part Four will examine environmental law, climate change adaptation, and the law of sustainable tea production. Part Five will explore the emerging questions of technology, digital governance, and the future of tea law in the age of artificial intelligence and the digital economy.

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End of Part One

Part Two: Substantive Labour Law of the Tea Plantation: Wages, Hours, Safety, Social Security, and Termination will follow.

Note on Citation Conventions: This textbook follows the conventions of legal academic writing. Cases are cited by their conventional legal citation. Statutory references include the full title and year of the legislation. Secondary sources are cited by author, title, and publication details. Where recent legislative developments have not yet been formally published in legal reports, reference is made to authoritative news sources and official government publications.

Note on Jurisdiction: While this text has a primary focus on South Asian tea law, and particularly Indian, Bangladeshi, and Sri Lankan frameworks, it draws throughout on comparative material from Kenya, China, and other tea-producing jurisdictions. The reader should always be attentive to the specific jurisdictional context of any legal provision or judicial decision under discussion.

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PART TWO: SUBSTANTIVE LABOUR LAW OF THE TEA PLANTATION: WAGES, WORKING TIME, OCCUPATIONAL SAFETY AND HEALTH, SOCIAL SECURITY, INDUSTRIAL RELATIONS, AND TERMINATION

PREFACE TO PART TWO

Part One of this textbook established the foundational architecture of tea law: its history rooted in colonial exploitation, its philosophical underpinnings drawn from natural law, legal positivism, Dworkinian interpretivism, the capabilities approach, feminist legal theory, and critical post-colonial scholarship, and its constitutional setting in the fundamental rights and directive principles of South Asian democracies. It traced the structural inadequacy of the legal framework from the brutal penal contract system of the colonial era through the partial reforms of the Plantations Labour Act 1951 to the seismic legislative transformation represented by India's four new Labour Codes, which came into force on 21 November 2025.

Part Two now descends from the architectural to the substantive. It examines, in granular and critical detail, the specific bodies of legal doctrine that govern the daily material conditions of tea workers and the legal relationships within which those conditions are produced and contested. These bodies of doctrine are: wage law, the law of working time, the law of occupational safety and health, the law of social security and welfare benefits, the law of industrial relations including collective bargaining and dispute resolution, and the law of termination of employment.

Each of these bodies of law is examined in its national specificity (primarily India, Bangladesh, Sri Lanka, and Kenya) and in its international dimension (ILO conventions, comparative jurisprudence, and the growing influence of European supply chain due diligence legislation). Each is also examined through the jurisprudential lenses established in Part One, so that doctrinal analysis is consistently linked to the philosophical and theoretical questions that give law its deeper meaning and significance.

The most important recent development that runs through all of these substantive areas is the implementation of India's four new Labour Codes on 21 November 2025. This is a development of transformative significance for the law of the tea plantation, and it is treated with the care and critical attention it deserves. The Codes represent both a genuine advance on the fragmented statutory framework they replace and, as critics argue, a set of risks and ambiguities that may in certain respects weaken rather than strengthen the protections available to plantation workers. The honest academic analyst must hold both of these propositions simultaneously and subject them to rigorous examination.

A further development of the most immediate relevance, announced just weeks before the publication date of this volume, is the Assam government's decision, notified on 7 March 2026 and effective from 1 April 2026, to increase the minimum daily wage of tea plantation workers

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in the Brahmaputra Valley to Rs. 280 and in the Barak Valley to Rs. 258. This development, flowing from the recommendation of the Minimum Wages Advisory Board for Tea Plantation Workers at its meeting on 26 February 2026, is analysed in detail in the wage law chapter, both as a concrete legal fact and as an illustration of the systemic tensions in the tripartite wage-setting process.

CHAPTER THIRTEEN: THE LAW OF WAGES IN THE TEA INDUSTRY: DOCTRINE, CONTROVERSY, AND THE LIVING WAGE IMPERATIVE

13.1 Introduction: The Centrality of the Wage Question

If there is a single issue that defines the legal and human condition of tea workers more powerfully than any other, it is wages. The wage is not merely a number. It is the expression, in monetary terms, of the social value placed upon the labour of the worker, the instrument through which the worker converts their physical and mental exertion into the means of life, and the site of the most fundamental contest of interests in the employment relationship. In the tea industry, the wage question carries an additional charge because of the historical specificity of the plantation wage system, rooted as it is in the colonial logic of partial payment supplemented by non-cash benefits that perpetuate dependence rather than enabling freedom.

Understanding tea wage law requires understanding the multiple layers of legal norms that govern it: the constitutional layer (fundamental rights and directive principles), the statutory layer (the Code on Wages 2019 as of November 2025, and its predecessors the Minimum Wages Act 1948 and the Payment of Wages Act 1936), the administrative layer (the proceedings of the Minimum Wages Advisory Board and the state government notifications), and the collective bargaining layer (negotiated agreements between unions and employer associations). Each of these layers interacts with and conditions the others in ways that create a complex and sometimes contradictory normative landscape.

13.2 The Historical Architecture of Plantation Wage Law

The historical foundations of the plantation wage system must be understood before the present framework can be properly assessed. As established in Part One, the colonial plantation labour system was built on partial payment: workers received cash wages that were deliberately kept low on the understanding (enforced by the estate's control over housing, food, and basic necessities) that the employer would supply non-cash benefits that made up the difference between the cash wage and the worker's total subsistence needs.

This system had two consequences of enduring legal significance. First, it established the principle, which has never been fully displaced from the legal framework, that non-cash benefits could be counted toward the total remuneration owed to plantation workers in a way that was not available in other sectors of the economy. Second, it created a structural relationship of

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dependence between workers and the estate that made the cash wage something less than what it would be in a free labour market: because workers were tied to the estate by housing and other necessities, the effective freedom to reject a wage offer and seek alternative employment was severely limited, which in turn suppressed the wage-setting process in ways that pure market economics cannot adequately explain.

The Minimum Wages Act of 1948, which was the primary statutory framework for wage regulation in India until the Code on Wages 2019 came into force, approached this problem through the mechanism of "scheduled employments." The Act empowered state governments to fix minimum wages for specific industries listed in the Schedule to the Act, and tea plantations were included in that Schedule. State governments fixed minimum wages for plantation workers through a process of advisory board consultation, but the process was consistently shaped by the political influence of plantation owners and the governments' concern not to increase costs in an export industry on which foreign exchange earnings depended.

The result, documented consistently in research over decades, was a persistent gap between the minimum wages fixed for plantation workers and the wages applicable to comparable categories of agricultural or unskilled labour in other scheduled employments. This gap reflected not a principled assessment of the relative value of plantation labour compared to other agricultural labour, but the specific combination of plantation owner influence and the non-cash benefit offset argument. Workers' unions challenged this gap repeatedly, in both the advisory board processes and in litigation, but with limited success.

13.3 The Code on Wages 2019: Architecture, Implementation, and the Plantation Dimension

The Code on Wages 2019 (Act No. 29 of 2019), which consolidated the Minimum Wages Act 1948, the Payment of Wages Act 1936, the Equal Remuneration Act 1976, and the Payment of Bonus Act 1965 into a single statute, came into force on 21 November 2025 as part of the package of four Labour Codes notified by the Government of India. This is one of the most significant single events in the history of Indian labour law in the twenty-first century, and its implications for the tea industry are profound.

The most structurally important innovation of the Code on Wages is the introduction of a universal floor wage, to be fixed by the Central Government, which will serve as a benchmark below which no state government can fix its state minimum wage. This is a direct response to the problem of inter-state competition in wage-fixing, the tendency of state governments to keep minimum wages low in order to attract investment, which has been a persistent feature of minimum wage politics in India and which has been particularly harmful in the plantation sector where estate owners can threaten to reduce investment or close gardens if wages rise too high.

The Code also introduces a uniform definition of "wages" that has important implications for the plantation sector. Under the Code, wages include basic pay, dearness allowance, and retaining allowance. Exclusions from the definition of wages (such as house rent allowance, overtime, and

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bonus) are capped at 50 percent of total remuneration, so that any non-wage payments in excess of 50 percent of total remuneration are treated as wages for the purposes of calculating minimum wage compliance, provident fund contributions, gratuity, and other wage-related entitlements.

This definition has direct and immediate implications for the plantation wage structure. The argument that has historically been made by plantation employers, that non-cash benefits like housing, rations, and medical facilities should be counted in full toward the minimum wage, is now constrained by the 50 percent cap. If non-cash benefits are treated as "allowances" (which is the most plausible interpretation of the Code's structure), then they cannot together exceed 50 percent of total remuneration without the excess being re-characterised as wages. This limits the extent to which employers can offset cash wage obligations with non-cash benefits, which is a significant advance in principle.

The equal remuneration provisions of the Code, which replace the Equal Remuneration Act 1976, extend the obligation of equal pay for equal work to all genders (the original Act used the narrower formulation of "men and women," which some courts had interpreted as not covering non-binary persons). The Code also extends the equal remuneration obligation to cover allowances and benefits under awards and settlements, not merely basic wages. In the plantation context, where women workers have historically been paid less than men for the same work on the grounds that men's work involves heavier physical effort (a distinction that courts have sometimes accepted and sometimes rejected), the strengthened equal remuneration provisions are of particular significance.

13.4 The Assam Wage Hike of April 2026: Legal Analysis

The most recent and most directly relevant development in Indian tea wage law is the notification issued by the Assam Department of Labour Welfare on 7 March 2026, increasing the interim minimum wages of tea plantation workers with effect from 1 April 2026. The notification, issued pursuant to the recommendation of the Minimum Wages Advisory Board for Tea Plantation Workers at its meeting on 26 February 2026, raises the daily minimum wage for workers in the Brahmaputra Valley from Rs. 250 to Rs. 280, and for workers in the Barak Valley from Rs. 228 to Rs. 258. The increase applies to workers in both large estate tea gardens and small tea gardens.

The legal analysis of this notification requires attention to several dimensions. The procedural dimension concerns the role of the Minimum Wages Advisory Board and the tripartite process by which the Board reaches its recommendations. The Board includes representatives of the state government, tea garden employers (represented through the Consultative Committee of Planters Association and other employer organisations), and workers (represented through the major unions including the Assam Chah Majdoor Sangha and affiliated organisations). The notification states that the Board's recommendation was made at a meeting on 26 February 2026, and that the state Cabinet approved the hike on the same date following a tripartite meeting.

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The substantive dimension concerns the adequacy of the revised wage. At Rs. 280 per day, the Brahmaputra Valley rate represents an increase of over 40 percent from the pre-2021 level of Rs. 175, which represents significant progress in nominal terms. However, the real purchasing power of Rs. 280 per day must be assessed against the inflation that has occurred over the same period, particularly the sharp price increases in food, fuel, and other necessities that characterised the 2021-2024 period globally and in India specifically.

The Assam Tea Tribes Development Authority's calculation, cited in Part One, that a family of four on a tea estate requires a minimum of Rs. 450 to 500 per day to meet its basic needs, suggests that even the revised wage of Rs. 280 represents a shortfall of approximately 40 percent from the living wage standard. This shortfall is mitigated to some extent by the non-cash benefits provided by the estate, but as discussed in the previous section, the extent to which these benefits can legitimately be counted as part of the minimum wage package is now constrained by the Code on Wages.

The constitutional dimension of the wage question, introduced in Part One, gains fresh relevance from the April 2026 notification. If the Supreme Court's interpretation of Article 21 in Olga Tellis v. Bombay Municipal Corporation (1985) is applied to the situation of tea workers receiving Rs. 280 per day, the question arises whether this wage, even with non-cash supplements, genuinely secures the "right to livelihood" as that concept has been elaborated in the Court's jurisprudence. The answer is not obvious, and the question is one that deserves serious academic and judicial attention.

The jurisprudential significance of the shift from collective bargaining (the system under which the last major wage agreement, signed in 2015 between the Consultative Committee of Planters Association and the Assam Chah Majdoor Sangha, set wages through union-employer negotiation) to state-administered advisory board wage-setting is also worth examining carefully. The displacement of collective bargaining by state administrative wage-fixing represents a fundamental change in the governance of wages in the plantation sector, with implications for the role of trade unions, the relationship between workers and the state, and the constitutional right to freedom of association. This change has been criticised by unions as reducing their role to one of representation before an administrative body rather than genuine collective bargaining, and it raises serious questions about compliance with ILO Convention No. 98 on the Right to Organise and Collective Bargaining.

13.5 The West Bengal Tea Wage Structure: A Comparative Analysis

The wage structure for tea workers in West Bengal, which includes the famous Darjeeling gardens as well as the Dooars and Terai growing regions, presents interesting points of comparison with the Assam structure. The minimum daily wage for West Bengal tea plantation workers stood at approximately Rs. 250 as of 2024-25, broadly similar to the pre-April 2026 Assam rate.

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West Bengal has historically operated a different wage-setting mechanism from Assam: instead of the advisory board system, West Bengal used a system of tripartite negotiations conducted under the aegis of the state Labour Department, with the threat of state intervention if the parties could not reach agreement. This system preserved a more genuine role for collective bargaining and was in this respect more compatible with ILO Convention No. 98 than the pure advisory board system.

However, West Bengal's wage structure has been complicated by the specific challenges of the Darjeeling region, where the combination of declining yields (partly attributable to climate change and the ageing of tea bushes), high production costs (the terrain makes mechanisation very difficult), political instability, and the premium market positioning of Darjeeling tea creates a distinctive economic environment. The Gorkhaland political movement, which has periodically disrupted production in the Darjeeling hills through strikes and bandhs, adds a further dimension of political economy complexity to the analysis of wages and working conditions in this region.

The interaction between the Darjeeling Geographical Indication framework and the wage structure of Darjeeling tea workers is an underexplored dimension of tea law that deserves attention. If the Darjeeling GI enables producers to charge premium prices in international markets, as it undeniably does, then the question of how that premium is distributed among the various actors in the supply chain (estate owners, processors, exporters, retailers, and workers) is a question of justice as well as economics. The existing legal framework does not require any specific sharing of GI premium rents with workers, and the evidence suggests that workers have not in practice benefited proportionately from the premium that the Darjeeling name commands.

13.6 Bangladesh Tea Wages: The Sylhet Model and Its Legal Framework

The wage law framework governing tea workers in Bangladesh presents a significantly different picture from that of India, reflecting both the different institutional structure of the Bangladesh tea industry and the different political economy of labour regulation in Bangladesh.

Bangladesh's tea workers are among the lowest paid in the world. As of 2024, the daily cash wage for a tea worker in Sylhet's gardens was approximately Taka 170 to 200 (approximately USD 1.50 to 1.80), a figure that places Bangladesh tea workers at the extreme low end of the global wage distribution even by developing country standards. The Bangladesh National Minimum Wage Board has not historically established a sector-specific minimum wage for tea workers that adequately reflects their subsistence needs, and the enforcement of even the nominal minimum wage has been inconsistent.

The Bangladesh Labour Act of 2006, as amended in 2013, 2018, and in the ongoing reform process of 2024-2025, provides the statutory framework for wage entitlements in the tea sector. However, the Act contains provisions specifically applicable to tea plantation workers that have been widely criticised as discriminatory: provisions that restrict the organizing rights of plantation workers in ways not applicable to workers in other sectors, and provisions that treat

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plantation workers differently from other workers in relation to certain social security entitlements.

The ILO's ProGRESS project, working in the Bangladesh tea sector through its active phase from 2022 to 2024, documented these discriminatory provisions extensively and recommended legislative reform to bring the Bangladesh Labour Act into conformity with ILO core conventions, particularly on freedom of association and collective bargaining. The tripartite dialogue organized by the project at Sreemangal in June 2024, attended by over 100 participants including tea workers, garden owners, and government representatives, produced a set of recommendations for legal reform that included the elimination of discriminatory provisions and the revision of minimum wage procedures for the plantation sector.

The constitutional dimension of Bangladesh tea wages is grounded in the 1972 Constitution's provisions on equality (Article 27) and the directive principles requiring the state to secure the right to work and reasonable wages (Article 20 and the directive principles in Part II). The gap between these constitutional aspirations and the reality of tea worker wages in Sylhet raises the same fundamental questions that arise in the Indian context, and the same theoretical frameworks apply: the capabilities approach asks whether the wage creates the genuine freedom to live a dignified life; the Rawlsian difference principle asks whether the wage distribution is the best available for the worst-off group; and natural law theory asks whether wages that do not cover basic subsistence needs can be justified by any theory of human dignity.

13.7 Sri Lanka Tea Wages: The Wages Board System, Recent Reforms, and the Living Wage Debate

Sri Lanka's plantation wage system has been governed by the Wages Boards system established under the Wages Boards Ordinance of 1941, a colonial-era instrument that has been amended on numerous occasions but has retained its essential structure. The Tea and Rubber Plantation Wages Board, which includes employer and worker representatives under an independent chairman, has historically set wages for estate workers at levels below those applicable in other sectors of the Sri Lankan economy.

A significant development in Sri Lanka's plantation wage history was the introduction, in 2016, of the "collective agreement" system under which the larger plantation companies and the Ceylon Workers Congress (the main union representing Tamil plantation workers) negotiated a collective agreement on wages and working conditions that replaced the Wages Board determination for the covered workers. This system has been the subject of considerable controversy, with critics arguing that the Ceylon Workers Congress's close relationship with the major employers compromised its independence as a bargaining agent, and that the collective agreements it negotiated did not adequately reflect the living wage needs of workers.

Since March 2024, the minimum wage for estate workers in Sri Lanka has been set at Rs. 17,500 per month (approximately USD 55 at 2024 exchange rates), representing a significant increase from previous levels. However, even this revised level is far below any living wage calculation

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for Sri Lanka, and it remains significantly lower than the minimum wages applicable in other sectors of the economy. The ILO's assessment of the Sri Lankan tea sector's fundamental rights compliance, published in 2024, noted the minimum wage increase as a positive development while identifying the continuing gap between statutory minimum wages and the living wage as a major concern.

The Sri Lankan tea wage system must also be understood in the context of the country's severe economic crisis of 2022-2023, which produced the worst economic contraction in Sri Lanka's post-independence history. The crisis, which included acute shortages of foreign exchange, fuel, and basic goods, hyperinflation, and the near-collapse of the government's fiscal position, had devastating effects on the living conditions of plantation workers, who saw the real value of their already inadequate wages eroded sharply by inflation while supplies of estate-provided rations and other non-cash benefits were also disrupted. The legal system's response to this crisis, including emergency price controls, debt restructuring, and the renegotiation of collective agreements, provides an important case study in the interaction between labour law and macroeconomic crisis management.

13.8 Kenya Tea Wages: Smallholder Pricing, Green Leaf Payments, and the KTDA Framework

Kenya's tea wage law situation is fundamentally different from that of South Asia because of the dominant role of smallholder cultivation in the Kenyan tea industry. As discussed in Part One, the Kenya Tea Development Agency (KTDA) model is built around smallholder farmers growing green leaf on their own land and delivering it to KTDA-managed factories for processing. In this model, the primary economic relationship is not between an employer and an employed worker but between a smallholder farmer and a processing company.

The legal framework governing the pricing of green leaf delivered by smallholders to KTDA factories is therefore a critical element of the economic rights of Kenyan tea farmers. The green leaf price is determined through a complex formula that takes into account the factory's processing costs, the auction price of the made tea, and the costs of the KTDA administrative apparatus. The legal disputes that have arisen around this formula, including litigation by farmer groups challenging what they regard as opaque and unfair distribution of auction revenues, illustrate the importance of transparency and accountability in the governance of cooperative agribusiness models.

The workers who are employed on the few remaining large estates in Kenya's tea industry (principally in the Kericho area, where the major multinational companies Unilever and Lipton maintained large operations) are covered by Kenya's Employment Act, 2007, and the Regulation of Wages (Agricultural Industry) Order made under the Labour Institutions Act. Kenya's minimum wages for agricultural workers are set through a combination of Wages Council recommendations and ministerial orders, and the agricultural minimum wage has historically been lower than the minimum wage applicable in urban industries.

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The most significant recent legal development in Kenya's tea sector relates to the governance of the KTDA and its successor entities following the transformation of the Tea Board of Kenya's functions under the Agriculture and Food Authority Act, 2013. Disputes about the governance of the KTDA model, the distribution of returns between smallholder farmers and the processing companies, and the quality of the tea produced under the model, have resulted in a series of legal challenges that illuminate the intersection of company law, agricultural regulation, and rural development policy in the Kenyan context.

CHAPTER FOURTEEN: THE LAW OF WORKING TIME ON TEA PLANTATIONS

14.1 The Significance of Working Time Regulation

Working time law is one of the oldest areas of labour legislation, dating in its modern form to the Factory Acts of nineteenth-century Britain. The regulation of the hours of work is significant not merely as a matter of worker welfare (though adequate rest is clearly essential to physical health and human flourishing) but as a matter of constitutional dignity, industrial democracy, and political economy. The question of how many hours a worker must give to the employer is inseparable from the question of how many hours the worker has for themselves, for their family, for participation in community life, and for the exercise of those freedoms that make citizenship meaningful.

On tea plantations, working time has historically been determined not by statute alone but by the combination of the weather (which determines when plucking can occur), the seasonal rhythm of the crop (which creates peaks and troughs in labour demand), the task system (which in many estates establishes a daily quota of leaf to be plucked rather than a fixed number of hours), and the employer's discretion. The interaction of these factors with the statutory working time framework creates a legal landscape of considerable complexity.

14.2 The Statutory Framework: From the PLA to the OSH Code 2020

The Plantations Labour Act 1951 established a statutory limit of 54 working hours per week for adult workers, with a maximum of 12 hours on any single day including overtime, and a minimum rest interval of 30 minutes where work continues for more than five hours without a break. These limits were more permissive than the 48-hour week established by ILO Convention No. 1 (1919) and the 40-hour week that was becoming the standard in developed economies during the same period, reflecting the compromise between worker protection and plantation owner interests that characterised the Act as a whole.

The Occupational Safety, Health and Working Conditions Code 2020, which came into force on 21 November 2025, replaces the PLA's working time provisions. The OSH Code establishes a maximum of 8 working hours per day (with a maximum of 12 hours including overtime) and 48 hours per week for workers generally, with the possibility of daily extensions to 12 hours and

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weekly extensions to 60 hours with overtime pay. For plantation workers, the Code retains provisions addressing the seasonality of agricultural work, recognising that the demand for labour varies significantly between the peak plucking season and the slack season, and providing for a system of averaging that allows working hours to be calculated over a longer reference period rather than on a strictly weekly basis.

The overtime payment provisions of the Code require overtime to be paid at twice the ordinary rate of wages, a provision that aligns with the standard in ILO Convention No. 1 and represents an improvement over the previous framework in some states where overtime rates for plantation workers were set at 1.25 or 1.5 times the ordinary rate.

14.3 The Task System: A Legal Analysis

The task system, under which workers are given a specified quantity of green leaf to pluck each day (the "task") rather than a specified number of hours to work, is one of the most legally significant features of plantation working time management. The task is typically set by estate management at a level that requires an able-bodied worker approximately seven to eight hours to complete under normal conditions. Workers who complete the task early (typically the most experienced and physically fit workers) may leave the field before the standard shift end time. Workers who cannot complete the task (because of ill health, age, physical limitation, or difficult field conditions) may work beyond the standard shift time without additional pay.

The legal characterisation of the task system is ambiguous under both the PLA and its successor, the OSH Code. If the task is completed in fewer than 8 hours, is the worker entitled to a full day's wage? If the worker requires more than 8 hours to complete the task, has the employer violated the working time provisions? If the employer sets the task at a level that systematically requires healthy adult workers to work more than 8 hours, is this a violation of the maximum working time provisions?

Courts have not definitively resolved these questions, and the practice varies between estates and between states. However, the better legal analysis, consistent with the purposes of working time legislation and the constitutional mandate to secure humane working conditions, is that the task should be set at a level that can be completed within the maximum statutory working time, and that workers who complete the task early are entitled to the full day's wage without deduction. This interpretation is supported by the Supreme Court's approach in a series of cases concerning the principle that a worker who is ready and willing to work and who has completed the assigned work is entitled to wages for the full working day, regardless of whether the employer has more work to offer.

14.4 Night Work and the Special Position of Women Workers

The OSH Code 2020, effective from 21 November 2025, introduces an important change in the legal position of women workers in relation to night work. The Code permits women to work in all types of establishments and during night hours (defined as the period between 7 pm and 6 am

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in the plantation context) subject to their consent and the provision of appropriate safety measures by the employer.

This change in the law responds to the recommendations of women's rights organisations and feminist legal scholars who argued that the previous prohibition on women working at night, while ostensibly protective, effectively operated as a discrimination against women by limiting their access to certain types of employment and to the higher wages that night shifts sometimes attract. The argument, developed within the framework of formal equality feminism, is that women should not be presumed to be incapable of protecting themselves or of making their own choices about night work, and that the state should address the safety concerns associated with night work through positive obligations on employers rather than through categorical restrictions on women's employment.

The critical response to this reform, advanced from a substantive equality or care ethics perspective, argues that the formal liberalisation of night work for women, without addressing the structural conditions of the plantation environment (the physical isolation of estates, the inadequacy of transport, the lack of secure accommodation for women who work late) and the unequal distribution of domestic and care responsibilities within plantation households (which fall disproportionately on women regardless of their formal employment status), creates a formal freedom without the substantive conditions necessary for it to be genuinely exercised. This critical response does not necessarily argue for the restoration of the night work prohibition; rather, it argues for a package of positive protections, including safe transport, secure accommodation, and childcare facilities, that would make the right to work at night a real freedom rather than a notional one.

14.5 Leave Entitlements: Annual Leave, Sick Leave, and Casual Leave

The leave entitlements of tea plantation workers under the OSH Code 2020 represent an improvement over the PLA framework in certain respects while raising new questions in others. The Code provides for annual leave with wages at the rate of one day for every 20 days of work completed during the preceding calendar year, with a minimum of 15 days' annual leave. Workers are also entitled to national holidays with wages on the occasions specified by the state government.

The provision on annual leave should be read together with the Code's provision that every worker will have the option of taking annual leave after 180 days of work in a year, which is a change from the previous framework under which leave could only be taken after a full year of qualifying service. This change is potentially significant for seasonal and migrant workers who may not remain employed for a full year at any single plantation but who have accumulated leave entitlement through 180 days of work.

Sick leave provisions in the plantation sector have historically been a matter of administrative regulation rather than statutory entitlement, with the PLA requiring employers to provide medical facilities but not specifying a general entitlement to paid sick leave. The new Code

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addresses this gap by providing for a system of medical leave that applies across establishments, though the specific provisions applicable to plantation workers will be determined in part through the rules to be made under the Code.

14.6 The Working Time of Children and Adolescents: Special Provisions

The prohibition of child labour on tea plantations, discussed in Part One, interacts in complex ways with the working time framework. Where children are found working on plantations in violation of the prohibition, the question of the hours they work becomes relevant both to the characterisation of the work as "child labour" (which requires that the work be of a prohibited type or that it interfere with the child's education) and to the assessment of harm suffered by the child.

For adolescent workers (14 to 18 years old), who may be employed on tea plantations in non-hazardous activities, the Child and Adolescent Labour (Prohibition and Regulation) Act 1986 (as amended in 2016) and the OSH Code both provide for reduced maximum working hours compared to adult workers. Adolescent workers may not work for more than 6 hours per day, may not be required to work between 7 pm and 8 am, and must not be employed on a day on which they are expected to attend school.

The enforcement of these provisions on tea plantations, where informal arrangements for family members to help with plucking are common and where the task system creates incentives for workers to bring family members into the field to help complete the daily quota, is a persistent challenge. The legal liability of the estate for child or adolescent labour performed informally alongside employed adult workers, without a formal employment contract, is a grey area that enforcement authorities have not consistently addressed.

CHAPTER FIFTEEN: OCCUPATIONAL SAFETY AND HEALTH IN THE TEA INDUSTRY: HAZARDS, LAW, AND THE GAP BETWEEN NORM AND REALITY

15.1 The Hazard Profile of Tea Plantation Work

Tea plantation work presents a distinctive and significant occupational hazard profile that the legal framework is only partially equipped to address. The hazards of the work can be grouped under several categories: physical hazards, chemical hazards, biological hazards, ergonomic hazards, and psychosocial hazards.

Physical hazards in tea cultivation include the risk of injury from hand tools used in plucking, pruning, and other cultivation tasks; the risk of musculoskeletal injury from the repetitive bending, reaching, and carrying motions involved in manual plucking; the risk of falls on the steep and often uneven terrain of hill gardens; the risk of heat stress and dehydration during

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intensive plucking periods; and the risk of electrocution or other injury in the tea processing factory.

Chemical hazards are of particular concern in the tea industry because of the extensive use of pesticides and herbicides in modern plantation cultivation. Tea is one of the most heavily treated agricultural crops in terms of pesticide application: the crop's value per unit area, the intensity of pest and disease pressure in tropical growing conditions, and the economics of plantation management all create incentives for high pesticide use. Workers who apply pesticides, and to a lesser extent workers who pluck in treated fields, are exposed to risks of acute poisoning and chronic disease associated with organophosphates, synthetic pyrethroids, and other pesticide classes widely used in tea cultivation.

The ILO's Safety and Health for All programme, which has an ongoing focus on pesticide application practices in tea and vegetable farming as evidenced by its publication on the subject in October 2025, has identified pesticide exposure as one of the priority occupational safety and health concerns in the tea sector. Research in Nepal published under the auspices of this programme found widespread deficiencies in personal protective equipment provision and use, in pesticide storage and handling procedures, and in the training of workers who apply pesticides.

Biological hazards include exposure to snakes, leeches, and insects in the field; the risk of transmission of vector-borne diseases (malaria, dengue, scrub typhus) in plantation areas; and the risk of respiratory infection associated with close living quarters in plantation housing. Ergonomic hazards arise from the repetitive and posturally demanding nature of plucking work, which has been associated with high rates of musculoskeletal disorders (particularly of the upper limbs, neck, and back) among women workers who constitute the majority of the plucking workforce.

Psychosocial hazards, which have received less systematic attention in the tea occupational safety and health literature, include the stress associated with the task system and the pressure to meet daily quotas, the social isolation of remote plantation communities, the limited access to social support networks for migrant workers, the specific stress of women workers managing employment and domestic responsibilities simultaneously, and the chronic stress of poverty and economic insecurity.

15.2 The OSH Code 2020: Key Provisions for Plantation Workers

The Occupational Safety, Health and Working Conditions Code 2020, which from 21 November 2025 replaces the PLA and other OSH-related statutes, establishes a comprehensive framework for the regulation of occupational safety and health in all establishments including plantations. The Code's key provisions for the plantation sector include: the general duties of employers in relation to the health and safety of workers; the specific requirements for welfare facilities; the provisions for occupational health services; the standards for housing on plantations; and the enforcement and inspection regime.

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The general duties of employers under the Code include providing and maintaining a work environment that is safe and without risk to health; ensuring safe means of access to and egress from workplaces; ensuring the safety and absence of health risks in connection with the use, storage, and transport of plant and substances; providing adequate information, instruction, training, and supervision; and maintaining the workplace in a safe condition. These general duties are supplemented by sector-specific rules to be made under the Code, and the plantation sector rules will need to address the specific hazards identified above.

The welfare facilities provisions of the Code retain the substance of the PLA requirements (canteens, creches, rest rooms, drinking water facilities) while strengthening them in certain respects. Notably, the Code requires that all workers above the age of 40 are entitled to a free annual health check-up, which is a new provision not present in the PLA framework and which has particular significance for older plantation workers who may have accumulated occupational health problems from years of exposure to pesticides, ergonomic hazards, and other occupational risks.

The housing provisions of the Code for plantation workers have been the subject of controversy, as noted in Part One. The Code requires that suitable accommodation be provided for workers and their families residing on the plantation, but the standard of "suitability" is not defined in the Code itself and will depend on the rules made under the Code and the interpretation of those rules by enforcement authorities and courts. Critics have argued that the Code's housing provisions are weaker than those of the PLA because they lack the PLA's specific requirement that housing meet standards prescribed by the state government, giving employers more discretion to determine what is "suitable."

15.3 Pesticide Regulation and Tea: The Interaction of OSH Law and Environmental Law

The regulation of pesticide use in tea cultivation is a field in which occupational safety and health law, environmental law, and food safety law converge. The legal framework governing pesticides in India consists of the Insecticides Act 1968 (now being revised under the Pesticides Management Bill, which has been in the legislative pipeline for over a decade), the Maximum Residue Limits (MRLs) for pesticides in tea established by the Food Safety and Standards Authority of India (FSSAI), the Tea Board's regulations on pesticide use in tea cultivation, and the OSH framework applicable to workers who handle pesticides.

The legal complexity of pesticide regulation in tea is compounded by the international dimension. The importing countries of Indian tea, particularly the European Union, Japan, and the United States, impose MRL standards that may be stricter than Indian domestic standards, creating pressure on Indian producers to reduce pesticide residues in their product. The EU's MRL framework, which has been progressively tightened under the Farm to Fork Strategy (one of the key elements of the European Green Deal), has resulted in the rejection of several consignments of Indian tea in European markets in recent years, creating both commercial pressure for reduced pesticide use and an indirect incentive for improved occupational safety in pesticide handling.

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The interaction between consumer market standards and worker safety standards is a significant feature of the international regulatory landscape. In principle, the same pesticide that creates a food safety risk for consumers (through residues on the product) also creates an occupational health risk for the workers who apply it (through direct exposure). In practice, the enforcement of consumer-oriented food safety standards has sometimes been more effective than the enforcement of worker-oriented occupational safety standards, because consumer markets (and especially importing country regulators) have powerful tools to exclude non-compliant products. This creates an asymmetry: workers' occupational health may benefit from consumer food safety standards even when direct occupational safety enforcement is weak, but it also means that the legal protection of workers is mediated through market mechanisms rather than guaranteed by rights-based enforcement.

15.4 The National OSH Policy Framework: Sri Lanka, Bangladesh, and Kenya

Sri Lanka developed a new National Occupational Safety and Health policy in 2024, together with a National OSH Programme for the period 2024 to 2028. As the ILO's 2024 assessment of the Sri Lankan tea sector noted, these documents represented an important policy development, though they had not yet been endorsed by the government at the time of the ILO's assessment. The policy documents specifically referenced the agriculture sector, acknowledging the high incidence of informal work, the challenges of occupational health services provision in remote locations, the incidence of occupational accidents and diseases, and the exposure to agrochemicals as priority concerns. The incomplete implementation of these policy documents as of 2024 illustrates the general pattern in which policy ambition runs ahead of institutional capacity in OSH governance in low-and-middle-income tea-producing countries.

Bangladesh's OSH framework for the plantation sector is governed primarily by the Bangladesh Labour Act 2006, as amended, which includes provisions on safety, health, and welfare in factories and establishments. The plantation sector's OSH record in Bangladesh has been characterised by high rates of under-reporting of occupational injuries and diseases, limited inspection capacity, and significant deficiencies in the provision of safety equipment and training. The absence of adequate data on occupational health outcomes in Bangladesh's tea gardens is itself a significant legal and policy problem: without data, it is impossible to monitor compliance or to assess the effectiveness of regulatory interventions.

Kenya's occupational safety and health framework for the plantation sector is governed by the Occupational Safety and Health Act 2007, which established a national framework for OSH regulation applicable across sectors. The Directorate of Occupational Safety and Health Services (DOSHS) is responsible for enforcement, but as in other jurisdictions, capacity constraints and the geographic dispersal of plantations limit the effectiveness of the inspection regime.

15.5 Occupational Health Services on Tea Plantations: Medical Facilities, Insurance, and the ESIC Question

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The provision of medical facilities on tea plantations has historically been one of the distinctive features of the plantation welfare system, with the PLA and its predecessors requiring employers to maintain first aid facilities, ambulance rooms, and (on larger estates) hospitals. The quality of these facilities has varied enormously: at their best, the larger estates have maintained well-equipped hospitals with qualified medical staff that provide genuine healthcare to workers and their families. At their worst, the "medical facility" may be a room with a basic first aid kit tended by a worker with minimal training.

The exclusion of plantation workers from the Employees' State Insurance (ESI) scheme has historically been one of the most significant gaps in the social security coverage of tea workers in India. The ESI scheme, which provides for medical care, sickness benefit, maternity benefit, disability benefit, and death benefit, is one of the most comprehensive social security programmes in the Indian context, and its non-applicability to plantation workers (justified on the grounds that the employer-provided medical facilities on the estate substitute for the ESI's medical care provisions) has resulted in a system that is less reliable and less comprehensive than the ESI in the best cases, and dramatically inferior to the ESI in the many cases where estate medical facilities are inadequate.

The Code on Social Security 2020, effective from 21 November 2025, addresses this gap by providing that the Code envisages giving the option to plantation owners to enrol their workers as members of the ESIC (Employees' State Insurance Corporation). This is a significant, if partial, reform: it moves toward extending ESI coverage to plantation workers without mandating it. The question of whether voluntary enrolment will in practice result in significant numbers of plantation workers being brought within the ESI system depends on the incentives created for plantation owners to choose ESI over their own medical facility arrangements, and on the adequacy of the ESIC infrastructure in plantation areas, which is currently limited.

CHAPTER SIXTEEN: SOCIAL SECURITY LAW FOR TEA WORKERS: THE NEW FRAMEWORK AND ITS IMPLICATIONS

16.1 The Architecture of Social Security in the Tea Industry: Before and After November 2025

Social security law, in the broad sense of the legal framework providing for protection against the economic risks of sickness, injury, old age, unemployment, and death, is of particular importance in the plantation context for reasons rooted in the structural features of the plantation system. The plantation worker's dependence on the employer for housing and basic necessities means that the loss of employment (whether through injury, illness, retrenchment, or age-related incapacity) is not merely a loss of income but a loss of the entire material foundation of the worker's and family's life. The social security framework must therefore address not only the replacement of lost income but the continuing access to housing and other necessities that employment on the estate had provided.

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Before the implementation of the new Labour Codes on 21 November 2025, the social security framework for plantation workers in India was governed by a patchwork of legislation: the Employees' Provident Funds and Miscellaneous Provisions Act 1952 (for provident fund and pension), the Payment of Gratuity Act 1972, the Maternity Benefit Act 1961, the Workmen's Compensation Act 1923 (which had been replaced by the Employees' Compensation Act 1923 as amended), and various provisions of the PLA itself relating to medical facilities and welfare. This patchwork created inconsistencies, gaps, and administrative complexity that disadvantaged workers who needed to navigate multiple statutory systems and multiple enforcement agencies to claim their entitlements.

The Code on Social Security 2020, brought into force on 21 November 2025, consolidates nine existing social security statutes into a single framework. The Code's implementation represents the most significant structural reform of Indian social security law since the foundational social security legislation of the 1950s and 1960s.

16.2 Provident Fund Under the Social Security Code

The Code on Social Security 2020 retains the essential structure of the Employees' Provident Funds (EPF) system, under which both employer and employee contribute a percentage of wages (currently 12 percent each) to a fund that provides retirement savings, life insurance, and housing finance to workers. For plantation workers, the EPF has historically been an important source of retirement security, though its effectiveness has been limited by the irregular and seasonal nature of plantation employment, the low wage base on which contributions are calculated, and the early withdrawal of funds by workers facing immediate financial need.

The Code introduces important innovations in the administration of provident fund benefits. Aadhaar-linked Universal Account Numbers (UANs) are mandated to make welfare benefits fully portable and easily accessible, a provision of particular significance for migrant workers who move between states and between employers. If effectively implemented, this portability provision would address one of the most significant practical problems in the existing system: the loss or non-transfer of provident fund balances when workers move between estates or leave the formal plantation sector.

The Code also extends provident fund coverage to gig workers, platform workers, and aggregators, defined for the first time in Indian labour law. While this provision is primarily relevant to the digital economy context, its significance for the tea industry lies in the potential to extend coverage to seasonal and contract workers in the plantation sector who are engaged through labour contractors and platforms rather than in direct employment relationships. The aggregator contribution requirement (1 to 2 percent of annual turnover, capped at 5 percent of the amount paid to gig and platform workers) creates a new social security funding mechanism that could potentially be extended to the plantation contracting system.

The five-year limitation period for the initiation of provident fund proceedings, introduced by the Code, replaces the previously unlimited limitation period under the EPF Act. This is a change

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that has been criticised by some labour lawyers as weakening workers' ability to recover past arrears of EPF contributions, since workers (particularly on closed or closing estates) may not have the knowledge or the access to legal advice needed to file a claim within the limitation period.

16.3 The Gratuity Revolution: From Five Years to One Year

One of the most celebrated changes introduced by the Labour Codes implementation of November 2025 is the reduction in the qualifying period for gratuity from five years to one year for fixed-term employees. Under the previous framework, the Payment of Gratuity Act 1972 required workers to complete five years of continuous service before becoming entitled to gratuity (a lump sum payment calculated at the rate of 15 days' wages for every completed year of service). This five-year qualifying period had been a particular injustice for seasonal and temporary plantation workers, many of whom worked for periods of one to three years on an estate before being laid off at the end of the season or following a change in estate management, and who received no gratuity because they had not crossed the five-year threshold.

The reduction of the qualifying period to one year for fixed-term employees addresses this injustice directly, and it is one of the clearest examples of the Labour Codes improving upon the previous framework in ways that specifically benefit the most vulnerable workers. In the plantation context, where fixed-term and seasonal employment has become increasingly common as estate managers attempt to reduce the costs of permanent employment, this change has the potential to extend gratuity entitlement to a significant proportion of workers who were previously excluded.

However, the full significance of this change depends on a definitional question that the Code does not fully resolve: what is a "fixed-term employee" in the plantation context? The Code defines a fixed-term employment contract as a contract entered into in writing between an employer and a worker for a specific fixed period, with specified working hours, wages, and other conditions of service. The question is whether the many plantation workers who work on a seasonal or temporary basis without formal written contracts are "fixed-term employees" within this definition. If they are not, they continue to require five years of service for gratuity entitlement, and the new provision does not help them.

The resolution of this definitional question through judicial interpretation or administrative guidance will be one of the key developments to watch in the coming years of the new Labour Code regime. The principle of purposive interpretation, consistent with the constitutional commitment to worker welfare, supports an interpretation of the fixed-term employment provisions that extends them to seasonal and temporary workers even where the formal requirements of a written contract have not been satisfied.

16.4 Maternity Benefit in the Tea Industry: Law, Practice, and the Gender Dimensions

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Maternity benefit law has a particular significance in the tea industry, where women workers constitute a large majority of the workforce and where the physical demands of plucking work make the maternity benefit provisions especially important. The Maternity Benefit Act 1961, as amended by the Maternity Benefit (Amendment) Act 2017, provides for 26 weeks of paid maternity leave for women who have worked for at least 80 days in the 12 months preceding the expected date of delivery.

The 2017 amendment, which doubled the maternity leave entitlement from 12 to 26 weeks, was presented by its supporters as a progressive reform aligning India with the maternity leave standards of developed countries. Its critics, however, raised concerns that the increased cost burden on employers might create incentives for discriminatory hiring practices, with employers preferring male workers or contract workers (over whom the maternity benefit obligation does not lie in the same way as over permanent employees) to avoid maternity leave costs.

The Social Security Code 2020 retains and extends the maternity benefit framework, making it applicable to all women workers regardless of the size of the establishment. Under the previous framework, the Maternity Benefit Act's application was linked to establishment size, creating gaps in coverage for workers employed in small establishments. The extension of coverage is particularly significant for workers in small tea gardens (below the 5 hectare or 15 worker thresholds that defined the coverage of the PLA), who were previously outside the statutory maternity benefit framework.

The practical implementation of maternity benefit provisions on tea estates has been characterised by significant gaps between the legal entitlement and its exercise in practice. Research has documented that many women workers on tea estates are unaware of their maternity benefit rights, that some employers discourage or actively deny claims for fear of the cost, and that the requirement for the worker to give advance notice of pregnancy (under the Act) creates a risk of discrimination against pregnant workers before the maternity benefit period begins. The Code's provisions on the prohibition of discrimination against pregnant workers are strengthened compared to the previous framework, but enforcement will remain a challenge.

16.5 Workers' Compensation and Occupational Injury in the Tea Industry

The Employees' Compensation Act 1923 (as amended, previously the Workmen's Compensation Act) provides for the payment of compensation to workers who suffer injury or death in the course of employment. The Social Security Code 2020 subsumes the Employees' Compensation Act within its broader framework, extending coverage and improving administrative procedures.

In the tea industry, occupational injuries are a significant and underreported problem. As noted in the hazard profile analysis above, the combination of physical hazards (falls, tool injuries, snake bites), chemical hazards (pesticide poisoning), and ergonomic hazards creates a substantial burden of occupational injury and disease that the compensation system must address. However, the effectiveness of the compensation system in practice is limited by under-reporting of injuries (workers may fear job loss if they report injuries), limited access to the formal claims system

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(particularly for migrant workers), inadequate lump sum compensation amounts relative to the economic impact of serious injury or death, and the employer's ability in some cases to challenge claims on the ground that the injury was not work-related.

The ILO's approach to occupational injury compensation, reflected in Convention No. 121 (Employment Injury Benefits), emphasises the principle of full and adequate compensation, including not only lost wages but medical expenses, rehabilitation costs, and compensation for permanent disability. The level of compensation available under the Employees' Compensation Act has historically fallen below this standard, and it is an open question whether the Social Security Code's implementation will result in significant improvements.

CHAPTER SEVENTEEN: INDUSTRIAL RELATIONS LAW IN THE TEA SECTOR: COLLECTIVE BARGAINING, DISPUTES, AND THE RIGHT TO STRIKE

17.1 The Industrial Relations Framework: Overview

Industrial relations law governs the collective dimension of employment: the rights of workers to organise, to bargain collectively, and to take industrial action; the procedures for resolving collective disputes; and the institutional structures (trade unions, employers' associations, tripartite bodies) through which the interests of workers and employers are represented and mediated. In the tea industry, industrial relations law is of fundamental importance because the structural imbalances of power between estate owners and individual workers mean that only collective action can provide effective protection for workers' interests.

The industrial relations framework applicable to the tea industry in India has been significantly transformed by the implementation of the Industrial Relations Code 2020 on 21 November 2025. The Code consolidates the Industrial Disputes Act 1947, the Trade Unions Act 1926, and the Industrial Employment (Standing Orders) Act 1946 into a single statute, rationalising and in some respects reforming the framework for industrial relations.

17.2 The Trade Union Framework: Registration, Recognition, and Rights

The Trade Unions Act 1926, now replaced by the Industrial Relations Code 2020, provided the foundational legal framework for trade unions in India. The Act allowed any group of workers to register as a trade union with the Registrar of Trade Unions, and conferred certain legal immunities on registered unions and their members in relation to actions taken in furtherance of a trade dispute. The key limitation of the Trade Unions Act framework, from the perspective of plantation workers, was the absence of any mechanism for the compulsory recognition of a union by an employer: an employer could legally refuse to bargain with any union, regardless of the level of membership, unless required to do so by other legislation or by industrial custom.

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The Industrial Relations Code 2020 introduces a system of trade union recognition through the concept of the "negotiating union" and the "negotiating council." Where a single trade union has at least 51 percent membership among the workers in an establishment or industry, that union is entitled to be recognised as the negotiating union and to bargain exclusively on behalf of the workers. Where no single union has 51 percent membership, a negotiating council composed of the unions with the highest membership (down to those with at least 20 percent membership) may be established to bargain collectively.

The 51 percent threshold for sole bargaining rights has been criticised as too high in industries like tea, where multiple competing unions (some independent, some employer-sponsored) operate alongside each other and where no single union is likely to represent a majority of workers in all circumstances. Critics argue that the effect of the threshold is to entrench the position of the union that happens to have the highest membership (which may be the employer-sponsored union) and to weaken the bargaining power of independent unions that represent a minority of workers on any particular estate.

The plantation labour history in India is replete with examples of "yellow unions" (employer-sponsored or employer-friendly unions) that have undermined the organizing efforts of independent workers' organisations. The All India Plantation Workers Federation, the Assam Chah Majdoor Sangha, and the National Union of Plantation Workers in Sri Lanka all have histories of confronting employer-sponsored competitors. The legal framework governing trade union recognition in the Industrial Relations Code must be evaluated against this history, asking whether the Code's provisions provide adequate protection for the genuine freedom of association that ILO Convention No. 87 requires.

17.3 Collective Bargaining in the Tea Industry: Practice and Law

Collective bargaining, the process by which employer and union negotiate the terms and conditions of employment that will apply to the workers represented by the union, is both a legal right and a social practice. The legal right derives from ILO Convention No. 98 and from the constitutional framework of the producing countries. The social practice is shaped by the power relations between the parties, the information available to each, the state's role as mediator or enforcer, and the economic context within which bargaining takes place.

In the Indian tea industry, collective bargaining has historically operated at two levels: the industry level, where all-India or state-level associations of employers (like the Indian Tea Association, the Consultative Committee of Planters Association, and the Dooars Planters Association) negotiate with the major national or state unions; and the estate level, where local management may negotiate with the union on specific operational matters. The industry-level agreements have historically set wages, leave entitlements, and certain welfare provisions for all workers covered by the agreement, with estate-level agreements addressing more specific issues.

As noted in the discussion of wage law above, the shift from collective bargaining to state administrative wage-fixing through the Minimum Wages Advisory Board system represents a

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significant change in the governance of wages in the Assam plantation sector. This shift was formalized over the period from approximately 2015 (the date of the last major collective agreement between the Consultative Committee of Planters Association and the Assam Chah Majdoor Sangha) to the present. The tripartite meeting held on 26 February 2026, at which the Minimum Wages Advisory Board recommended and the state Cabinet approved the wage hike effective 1 April 2026, illustrates the new model: employer and union representatives sit at a tripartite table, but the state (through the Cabinet) makes the final determination, and the result is an administrative notification rather than a contractually binding agreement.

This change has profound implications for the law and practice of collective bargaining. If the state rather than the parties determines wages, what is the union's role? If the union's primary function is to present arguments to an advisory board rather than to negotiate directly with employers, are the ILO's collective bargaining standards actually being complied with? These are not merely academic questions: the ILO's Committee of Experts on the Application of Conventions and Recommendations, which monitors compliance with ratified ILO conventions, has in past reports expressed concern about arrangements that substitute state administrative wage-fixing for genuine collective bargaining in sectors where Convention No. 98 applies.

17.4 The Right to Strike: Industrial Action Law in the Tea Sector

The right to strike is recognised in international law as an integral element of freedom of association and the right to collective bargaining. ILO Convention No. 87 on Freedom of Association, while not explicitly mentioning strikes, has been interpreted by the ILO's supervisory bodies as protecting the right of workers and their organisations to take industrial action as a means of advancing their interests in collective disputes.

In India, the right to strike is constitutionally protected under Article 19(1)(c) (freedom to form associations) read with Article 19(1)(b) (freedom to assembly), but it is subject to reasonable restrictions under Article 19(4). The Industrial Relations Code 2020 regulates the exercise of the right to strike through a system of mandatory pre-strike notice, conciliation, and mediation procedures. Workers in "essential services" (a category that includes certain agricultural operations) face additional restrictions on the right to strike, including extended notice periods and the possibility of referral of disputes to adjudication rather than resolution through industrial action.

The history of strikes in the Indian tea industry is a rich one. Major strikes and lockouts have shaped the development of wages and working conditions on the estates, sometimes achieving significant gains for workers (as in the series of strikes in the 1950s and 1960s that contributed to improvements in housing and medical facilities) and sometimes resulting in violent confrontations, mass dismissals, and setbacks for workers' organisations. The THIRST Tea News Update for May 2025 reported "intensifying labour unrest across South Asia" in the tea sector, attributable to the combination of stagnant wages in the face of rising living costs, the impact of US tariffs on tea exporting countries, and the broader political tensions that characterised the South Asian labour market in the 2024-2025 period.

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The legal framework governing strikes in the tea industry must address the particular vulnerability of tea workers in strike situations: unlike factory workers, tea workers who strike face the risk not only of lost wages but of suspension of access to estate-provided housing and other necessities that are in practice controlled by the employer. The threat of eviction from estate housing has historically been used by plantation managers as a powerful instrument of strike-breaking, and the extent to which this practice is legally permissible under the housing provisions of the PLA and its successors is a question that courts have addressed inconsistently.

17.5 Dispute Resolution Mechanisms: Conciliation, Arbitration, and Adjudication

The Industrial Relations Code 2020 establishes a three-tier dispute resolution system: conciliation (by Conciliation Officers appointed by the government), mediation (by Industrial Mediation Boards), and adjudication (by Industrial Tribunals and Labour Courts). The Code also provides for the voluntary reference of disputes to arbitration by mutual agreement of the parties.

For tea industry disputes, the conciliation mechanism is frequently used as the first step in the resolution of collective disputes over wages, bonus, and working conditions. The quality of conciliation outcomes depends significantly on the skill and impartiality of the Conciliation Officer and on the balance of power between the parties. In regions where plantation owners have close relationships with state governments and the state Labour Department, the conciliation process may not always provide an independent and impartial forum for the resolution of disputes.

The Labour Courts and Industrial Tribunals, which adjudicate individual and collective disputes respectively, have developed a substantial body of jurisprudence on tea industry issues over the decades since independence. Cases concerning the interpretation of the PLA, the validity of terminations of employment, the entitlement to bonus and other incentive payments, the rights of contract workers, and the scope of managerial prerogative on estates have all come before these bodies. The adjudicatory jurisprudence of tea law, developed through these decisions, is an important body of law in its own right that this text cannot examine in full but that provides the practitioner with essential guidance on the application of the statutory framework to specific factual situations.

CHAPTER EIGHTEEN: THE LAW OF TERMINATION OF EMPLOYMENT, RETRENCHMENT, AND ESTATE CLOSURE

18.1 Introduction: The Unique Stakes of Termination in the Tea Plantation Context

In most employment contexts, the termination of employment is an event that ends an individual's economic relationship with a single employer and that the worker can typically respond to by seeking alternative employment. In the tea plantation context, the termination of employment carries additional and more severe consequences because of the tied nature of

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plantation housing and the practical absence of alternative employment in many remote plantation areas. The worker who loses their job on the estate typically loses their home as well, and faces the prospect of destitution in a community that may offer no other source of income.

This distinctive feature of the plantation employment relationship gives the law of termination of employment a heightened significance in the tea context. The legal framework must ensure not only that individual terminations are procedurally and substantively fair, but that the collective impact of mass retrenchment and estate closure is managed in ways that protect the basic interests of affected workers and their families. The failure of the legal framework to do so adequately has been one of the most serious and persistent criticisms of plantation labour law across South Asian jurisdictions.

18.2 Individual Termination: Standing Orders, Domestic Enquiry, and Natural Justice

The individual termination of a plantation worker's employment is governed by a combination of the Industrial Relations Code's provisions on standing orders (codes of conduct specifying the grounds and procedures for disciplinary action and dismissal) and the principles of natural justice developed by Indian courts.

Standing orders for plantations, made under the Industrial Employment (Standing Orders) Act 1946 (now replaced by the Industrial Relations Code 2020), specify the categories of misconduct that may justify dismissal and the procedure to be followed before a dismissal can be effected. The procedure typically requires: a charge sheet specifying the alleged misconduct; a show-cause notice giving the worker an opportunity to respond; a domestic enquiry (an internal disciplinary hearing) conducted by an independent enquiry officer; and a final order of dismissal or lesser punishment signed by the competent authority.

Courts have developed an elaborate jurisprudence on the requirements of natural justice in domestic enquiries, requiring that the enquiry be conducted impartially, that the worker have a reasonable opportunity to present their case (including the right to be represented in some circumstances), and that the enquiry officer's findings be based on the evidence before them rather than on external information. Industrial Tribunals and Labour Courts have jurisdiction to review disciplinary dismissals and to reinstate workers if the dismissal is found to have been procedurally or substantively improper.

The application of this framework in the plantation context is subject to characteristic distortions. Estate managers sometimes use the domestic enquiry system as a tool for the suppression of union activity, manufacturing disciplinary charges against union activists in retaliation for their organising efforts. The courts have been alert to this phenomenon, and there is a body of jurisprudence recognising that a dismissal that is formally based on misconduct but that is in substance motivated by anti-union animus is a violation of the worker's right to freedom of association and is not protected by the managerial prerogative of discipline.

18.3 Retrenchment: The Legal Framework and the Living Wage Problem

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Retrenchment, the collective termination of employment for economic reasons (as distinguished from individual disciplinary dismissal), is governed by the Industrial Relations Code 2020. The Code retains the key protections of the Industrial Disputes Act 1947 for workers in establishments employing more than a specified threshold of workers: the requirement of prior notice to the government (and in some cases prior government permission) before effecting retrenchment; the requirement of payment of retrenchment compensation at the rate of 15 days' wages for every completed year of service; and the principle of "last in, first out" (LIFO) in determining the order of retrenchment.

The Industrial Relations Code introduces an important change to the threshold for government permission requirements: establishments with up to 300 workers (increased from the previous threshold of 100) may now effect retrenchment and closure without prior government permission, requiring only notification. This change, which was highly controversial when the Code was enacted and remains so following its implementation, has been presented by the government as a means of reducing regulatory burden on businesses and facilitating restructuring of unviable operations. Critics argue that it weakens the protection of workers in establishments of 100 to 300 workers, who may now face retrenchment or closure without the prior scrutiny that government permission requirements provided.

For the tea industry, which includes many estates in the 100 to 300 worker range (particularly in the Darjeeling and Dooars regions), this change in the threshold has potentially significant implications. An estate that is financially stressed may now close or effect significant retrenchment with only prior notification rather than prior permission, reducing the opportunity for government intervention to protect workers' interests in the transition period.

18.4 Estate Closure: The Human Rights Dimension and the Inadequacy of the Legal Framework

The closure of tea estates is one of the most serious and persistent problems in tea labour law across South Asian jurisdictions, and it illustrates the inadequacy of the existing legal framework in a particularly stark way. When an estate closes, the consequences for workers extend far beyond the loss of income: they typically include eviction from estate housing, loss of access to estate-provided medical facilities, schools, and other amenities, and the displacement of entire communities in areas where there is no alternative economic base.

The closure of tea estates, particularly in West Bengal and Assam, has been a recurring phenomenon since the 1990s. The causes of closure are diverse: declining productivity of ageing tea bushes combined with inadequate reinvestment; falling international tea prices and the squeeze on margins; mismanagement and diversion of funds by estate owners; labour unrest that owners use as a justification for closure (sometimes as a pretext for avoiding labour law obligations); and increasingly, the impacts of climate change on yields and quality. The legal system's response to these closures has been inadequate, leaving workers stranded without wages, without housing security, and without effective legal remedies.

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The Gratuity Board (Calcutta) v. Parekh Dyes Case and a series of decisions by the Calcutta High Court and the Supreme Court in closure cases have established the legal principle that workers are entitled to their full statutory dues (wages arrears, provident fund contributions, gratuity, retrenchment compensation) when an estate closes, and that these dues constitute preferential debts in any insolvency proceeding against the estate. However, in practice, the insolvency of many closed estates means that the available assets are insufficient to meet all claims, and workers' dues (despite their preferential status) may receive only partial satisfaction. The further deterioration of assets during the period of closure (which may last years while legal proceedings are pending) compounds the problem.

The human rights dimension of estate closure, specifically the forced eviction of workers from estate housing upon closure, has been the subject of intervention by human rights organisations and, in some cases, by courts. The right to housing, derived from Article 21 of the Indian Constitution in the manner established in Olga Tellis (1985), provides a constitutional foundation for arguing that workers cannot be evicted from estate housing upon closure without the provision of alternative accommodation or reasonable notice and compensation. High Courts in West Bengal and Assam have issued orders restraining evictions from closed estates in several cases, requiring the estate management to continue to provide housing until the workers' statutory dues have been paid and alternative arrangements have been made.

The broader policy response to estate closure in the tea-growing regions has included government takeover of closed estates (under the West Bengal state government's policy of appointing government administrators to manage closed estates), re-leasing of closed estates to new management, and various relief schemes for displaced workers. These responses have been criticised as inadequate, ad hoc, and poorly coordinated, and as reflecting the state's difficulty in balancing the competing interests of investors (who resist government interference in the management and closure of private property), workers (whose fundamental rights are at stake), and the tea industry as a whole (whose long-term viability depends on a sustainable resolution of the closure problem).

CHAPTER NINETEEN: FREEDOM OF ASSOCIATION AND COLLECTIVE RIGHTS IN THE TEA INDUSTRY: A DEEPER ANALYSIS

19.1 The Foundational Importance of Freedom of Association

The history of tea labour law, as traced in Part One, demonstrates that every significant improvement in workers' conditions has been achieved through collective action: through strikes, through union bargaining, through political mobilisation, and through the sustained pressure of organised workers on resistant employers and reluctant governments. The logical corollary is that the legal protection of workers' collective rights, including freedom of association and the right to organise, is not merely one element of a comprehensive labour law framework but the essential foundation upon which all other protections rest. Without the capacity to organise and

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advocate collectively, workers in the tea industry have no effective means of exercising or enforcing their individual rights.

This proposition is grounded in both empirical observation and normative theory. The empirical observation is simply that the formal legal rights of individual workers in the tea industry have historically provided inadequate protection against the structural power of plantation employers, and that only collective organisation has been able to translate formal rights into real improvements in conditions. The normative theory, developed most powerfully in the work of Alan Hyde and others in the tradition of pluralist industrial relations, is that a just employment relationship requires a genuine balance of power between employer and workers, and that trade unionism and collective bargaining are the primary legal mechanisms for achieving that balance.

19.2 The Structures of Union Organisation in the Tea Industry

The structure of trade union organisation in the tea industry reflects both the distinctive features of the plantation workplace and the broader political and social context of labour organisation in the major tea-producing countries. Several structural features are common across jurisdictions.

First, union organisation in the tea sector has historically been dominated by political parties, with the major unions affiliated with political parties of different ideological orientations. In India, the major national trade union federations (INTUC, AITUC, HMS, CITU, BMS) all have plantation worker affiliates, and the strength of any particular union on any particular estate is often a function of the political affiliations of management and local government as much as of the actual preferences of workers. This politicisation of union organisation has both advantages and disadvantages: it connects plantation workers to broader political movements and gives them access to legal and political resources, but it also makes unions vulnerable to changes in political fortune and creates potential conflicts between the interests of the workers and the interests of the political party.

Second, the physical geography of the plantation creates specific challenges for union organisation that do not apply in the same way to urban factory workers. An estate is a self-contained community, and the employer's control over access to the estate, over housing allocation, and over the provision of amenities gives them powerful informal tools for discouraging union activity and punishing union activists. Workers who live on the estate are vulnerable to intimidation in ways that urban workers, who can leave the workplace and go home to a community outside the employer's control, are not.

Third, the demographic composition of the plantation workforce, particularly the high proportion of women workers and the caste and ethnic marginality of most plantation communities, creates specific barriers to union participation that the law must address. Women workers in many tea-growing regions face cultural and social barriers to participation in union meetings, to standing for union office, and to taking leading roles in industrial action. Caste hierarchies within plantation communities can be reproduced within union structures, with higher-caste workers

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dominating leadership positions while lower-caste workers (who may constitute the majority of the plucking workforce) have less effective voice.

19.3 Bangladesh: Discriminatory Labour Law Provisions and the Union Rights Controversy

The Bangladesh Labour Act 2006, as amended, contains provisions specifically applicable to tea plantation workers that have been consistently criticised as discriminatory and as violating ILO core conventions on freedom of association. These provisions include: restrictions on the formation of trade unions at individual tea estates (requiring a minimum membership of 30 percent of the workforce in an establishment before a union can be registered, a threshold that is significantly higher than the 15 percent threshold applicable in other sectors); limitations on strike action (including extended mandatory notice periods and restrictions on the right to call a strike during periods of heavy production); and provisions that allow estate management to take disciplinary action against workers who participate in "illegal" strikes without the same procedural protections that apply in other sectors.

The Rambhajan Kairi, Advisor to the Bangladesh Cha Sramik Association, speaking at the ILO-organised National Tea Day dialogue in Sreemangal on 5 June 2024, specifically highlighted these discriminatory clauses as among the central challenges facing tea garden workers. He also pointed to the limited knowledge of rights among workers themselves and the inadequate collective bargaining capabilities of existing unions as compounding factors.

The constitutional challenge to these provisions has been limited in Bangladesh's judicial context, partly because of the general political environment and partly because of the specific vulnerability of plantation workers who lack the resources and legal support to mount sustained constitutional litigation. International advocacy, through the ILO, through the European Union's GSP+ compliance monitoring, and through the campaigns of international labour rights organisations, has been a more effective, if slower, route toward legislative reform.

19.4 Sri Lanka: The Ceylon Workers Congress, Political Accommodation, and Worker Rights

Sri Lanka's plantation labour movement presents one of the most complex and politically contested cases in the comparative study of tea labour organisation. The Ceylon Workers Congress (CWC), founded in 1939 by S. Thondaman and subsequently led by his son Arumugam Thondaman until the latter's death in 2024, was for many decades the dominant union representing Tamil estate workers in Sri Lanka. The CWC's strength rested on its remarkable combination of trade union activity with political representation: S. Thondaman was a minister in successive Sri Lankan governments from the 1970s onward, and the CWC's political accommodation with the Sinhalese-dominated government provided both legal protections for estate workers (including the granting of citizenship to the last of the stateless plantation Tamils under the 2003 Grant of Citizenship to Stateless Persons Act) and a form of

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patronage politics that some critics argued was more attentive to the interests of the CWC leadership than to the rank-and-file workers.

The death of Arumugam Thondaman in 2024 has created a period of significant uncertainty in the organisation and representation of plantation Tamil workers in Sri Lanka. The question of who will fill the leadership vacuum in the CWC, and whether the organisation will maintain its dominant position in the plantation labour movement or whether rival unions will emerge to challenge it, has important implications for the future of collective bargaining and workers' rights on Sri Lankan estates.

The ILO's 2024 assessment of the Sri Lankan tea sector noted the significance of the union representation structure for the realisation of fundamental rights at work, and observed that the concentration of bargaining power in a single union (and historically in a single leader) created both the efficiencies of centralised bargaining and the risks of inadequate representation of workers' diverse interests. The assessment recommended measures to strengthen trade union democracy within the CWC and to facilitate the effective participation of women workers in union governance.

19.5 Kenya: Collective Bargaining in the KTDA Smallholder Framework

The collective rights framework in Kenya's tea sector operates very differently from South Asia because of the structural dominance of smallholder cultivation. Smallholder farmers are not employees of the KTDA or of the factory companies; they are independent producers who supply green leaf under contractual arrangements. The legal framework applicable to them is therefore not primarily employment law (freedom of association, collective bargaining) but agricultural contract law, cooperative law, and the regulatory framework of the Agriculture and Food Authority.

The question of how smallholder farmers can effectively organise to advance their collective interests vis-a-vis the processing companies, the Tea Board, and the government is one of the central governance questions in the Kenyan tea sector. The cooperative structure of the KTDA model, in which farmers own shares in the factory companies, provides one formal mechanism for collective representation, but the governance of these cooperatives has been plagued by the same problems of elite capture, information asymmetry, and limited democratic accountability that characterise cooperative governance in many agricultural sectors.

The emergence of smallholder farmer organizations as advocacy bodies, seeking legal reform of the green leaf pricing formula, better representation in the governance of the KTDA successor entities, and improved access to inputs and market information, represents an important development in the collective rights landscape of Kenya's tea sector. The legal framework for the recognition and protection of these organisations, including their right to petition regulatory bodies and to challenge adverse administrative decisions, is an area where Kenya's tea law is still evolving.

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CHAPTER TWENTY: THE INTERSECTION OF TEA LABOUR LAW AND HUMAN RIGHTS: BONDED LABOUR, TRAFFICKING, AND THE FORCED LABOUR DIMENSIONS OF THE PLANTATION SYSTEM

20.1 Beyond Formal Abolition: The Persistence of Coercive Labour Relations in the Tea Industry

The Bonded Labour System (Abolition) Act of 1976, and its counterparts in other South Asian jurisdictions, formally abolished bonded labour and declared all bondage agreements void and unenforceable. Article 23 of the Indian Constitution prohibited forced and begar labour. The Palermo Protocol to the UN Convention Against Transnational Organized Crime (2000), which India has ratified, defines and requires states to criminalise human trafficking, including labour trafficking. These instruments establish a clear formal prohibition of coerced labour in all its forms.

Yet the reality on the ground in parts of the South Asian tea industry continues to exhibit features that raise serious concerns about compliance with these prohibitions. The combination of debt bondage (where workers have borrowed from the estate management and feel unable to leave until the debt is repaid), tied housing (where eviction follows termination of employment), restricted freedom of movement (where workers require management permission to leave the estate for significant periods), and the absence of any realistic alternative employment in remote plantation areas creates a labour system that, while formally free, is substantively coercive in many of the ways that bonded labour was.

This substantive coercion is not confined to individual cases of particularly exploitative management. It is a structural feature of the plantation system, rooted in the colonial architecture of tied housing, in-kind benefits, and geographical isolation that was specifically designed to attach labour to the plantation without formal penal sanctions. The post-colonial legal framework abolished the formal sanctions but left the structural architecture largely in place, creating the conditions for what the Supreme Court in Bandhua Mukti Morcha (1984) called "contemporary forms of bonded labour" that the Bonded Labour System (Abolition) Act was intended to address.

20.2 Labour Trafficking in the Tea Industry: Recruitment Malpractice and Legal Responses

Labour trafficking in the tea sector, while distinct from the historical systems of indenture and bondage, shares certain structural features with them. The recruitment of workers for tea plantations, particularly the recruitment of migrant workers from distant districts through labour contractors (called sirdars in the plantation context), creates conditions in which deceptive or coercive recruitment practices can arise.

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Deceptive recruitment involves the misrepresentation of wages, working conditions, or the nature of the work offered, in order to induce workers to accept employment they would not accept if they had accurate information. Coercive recruitment involves the use of debt or advance payment to bind workers to an employer before they have an opportunity to assess the actual conditions of employment. Both forms of recruitment abuse occur in the tea sector, particularly in the recruitment of workers from tribal communities in Jharkhand, Odisha, and Bihar for plantation work in Assam and the Dooars.

The legal framework addressing these abuses includes the Bonded Labour System (Abolition) Act, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 (now replaced by the OSH Code's provisions on inter-state migrants), and the Trafficking of Persons (Prevention, Protection and Rehabilitation) Act 2018 (TP Act) in India. The TP Act, which establishes a comprehensive framework for the identification, rescue, and rehabilitation of trafficked persons and for the prosecution of traffickers, is directly applicable to cases of labour trafficking in the plantation sector.

The implementation of the TP Act in plantation areas has been limited, both because of the practical challenges of identifying and distinguishing trafficking from other forms of labour exploitation, and because of the reluctance of some state governments (where plantation owners have political influence) to aggressively enforce anti-trafficking provisions against the plantation sector.

20.3 The Role of the National Human Rights Commission and State Human Rights Commissions

The National Human Rights Commission of India (NHRC), established under the Protection of Human Rights Act 1993, has jurisdiction over human rights violations including violations of workers' fundamental rights on tea plantations. The NHRC has received and acted on several complaints concerning violations of workers' rights in the plantation sector, including complaints about bonded labour, child labour, non-payment of wages, and denial of statutory benefits.

The NHRC's interventions in the plantation sector have included recommendations to state governments to take specific remedial action, suo motu inquiries following media reports of egregious violations, and guidelines for the improvement of conditions on closed estates. The NHRC's effectiveness as a rights-protection institution in the plantation sector is limited by its essentially recommendatory (rather than binding) powers and by the practical challenges of monitoring compliance with its recommendations in remote plantation areas.

State Human Rights Commissions (SHRCs) in Assam, West Bengal, and other tea-growing states have similar jurisdiction and have in some instances been more effective than the NHRC in addressing state-level plantation violations because of their proximity to the affected communities and their ability to engage directly with state government departments.

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CHAPTER TWENTY-ONE: THE BONUS LAW IN THE TEA INDUSTRY: FESTIVAL BONUS, PRODUCTIVITY BONUS, AND LEGAL CONTROVERSIES

21.1 Bonus as a Statutory Right: The Payment of Bonus Act and the Code on Wages

The Payment of Bonus Act 1965 (now consolidated into the Code on Wages 2019 with effect from 21 November 2025) requires establishments meeting specified size and profitability thresholds to pay an annual bonus to workers. The bonus under the Act is calculated as a percentage of the worker's annual wages, with a minimum of 8.33 percent (one month's wages) and a maximum of 20 percent, depending on the establishment's profitability.

For plantation workers, the statutory bonus is one of the most eagerly anticipated and legally contested elements of their total remuneration. The legal controversies around plantation bonus include: the calculation of the "available surplus" from which the bonus is funded (and the employer's ability to manipulate this calculation through accounting choices); the eligibility of seasonal and contract workers for bonus; and the timing of bonus payment (traditionally linked to festivals like Durga Puja and Eid-ul-Fitr, which have given rise to the colloquial term "festival bonus" or puja bonus).

The adjudication of bonus disputes in the tea industry has generated a substantial body of jurisprudence. One of the recurring issues is the employer's claim that the estate is operating at a loss (which under the Act reduces the minimum bonus payable to 8.33 percent regardless of the establishment's overall financial position) and the union's challenge to the accuracy of the loss claim. The Supreme Court and various High Courts have developed principles for the scrutiny of plantation company accounts in bonus proceedings, including the disallowance of depreciation claims that are used to reduce the apparent profitability of the estate, and the consolidation of accounts of associated estates that are managed as an economic unit.

The Code on Wages 2019's bonus provisions retain the essential structure of the Payment of Bonus Act while making certain modifications to the eligibility thresholds and the calculation methodology. The extension of bonus eligibility to fixed-term and contract workers, consistent with the general thrust of the Labour Codes toward greater coverage of non-standard employment, is a potentially significant change for the plantation sector.

21.2 Ex-Gratia Payments and Customary Bonus in the Tea Industry

Alongside the statutory bonus, the tea industry has developed a rich tradition of ex-gratia payments and customary bonus schemes that reflect the particular culture and social organisation of the plantation community. The puja bonus, paid to workers before the Durga Puja festival in the Hindu calendar (or before Eid in Muslim-majority areas), has a history in the Indian tea industry that predates the Payment of Bonus Act. It began as a voluntary gesture by estate management and has over time acquired the character of a legally enforceable customary right in many cases, through the doctrine that a long-standing practice of payment, reasonably expected to continue, becomes a legally binding term of the employment relationship.

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The legal analysis of customary bonus in the tea industry draws on the general principles of implied contract terms and promissory estoppel, as well as on the specific jurisprudence developed by Labour Courts and Industrial Tribunals on the incorporation of custom and practice into collective agreements. The Darjeeling region has a particularly complex bonus culture, with different rates applicable to different categories of worker and different estates, reflecting the hierarchical structure of the plantation workforce.

CHAPTER TWENTY-TWO: THE IMPACT OF US TARIFFS AND GLOBAL TRADE DISRUPTIONS ON TEA LABOUR LAW IN 2025-2026

22.1 Trade Policy as Labour Policy: The Indirect Legal Effects of US Tariffs

The imposition of US tariffs on tea and other imported goods in 2025, as part of the broader trade policy shifts of the Trump administration's second term, has had significant indirect effects on the legal and economic conditions of tea workers in South Asia and Africa. The THIRST Tea News Update for May 2025 specifically identified the impact of US tariffs on tea-producing countries as one of the major developments of that period, alongside intensifying labour unrest across South Asia.

The legal analysis of the relationship between trade policy and labour law in the tea sector requires attention to several mechanisms through which trade policy changes translate into effects on workers' legal rights and conditions. The direct mechanism is the effect of tariff imposition on the export earnings of tea-producing countries: if US tariffs reduce the volume or value of tea exports, the resulting squeeze on producer margins may increase the pressure on employers to reduce labour costs, creating incentives for wage suppression, reduced welfare facility investment, and increased use of informal and contract labour.

The indirect mechanism operates through the political economy of labour regulation: when governments in tea-producing countries perceive a threat to the competitiveness of their tea industries from US tariffs, they may be less willing to improve labour standards (which increase production costs) and more inclined to offer regulatory concessions to plantation employers in order to maintain investor confidence and preserve employment.

A third mechanism operates through consumer market pressure: if US tariffs result in the diversion of tea exports to other markets with different (possibly lower) standards of social and environmental compliance, the overall demand for certified and ethically sourced tea may be affected, reducing the commercial incentive for plantation employers to maintain high labour standards.

The legal responses to these trade policy pressures include the invocation of human rights due diligence obligations under European supply chain legislation (which creates counter-pressure toward maintaining labour standards regardless of US trade policy), the activation of ILO

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mechanisms for monitoring the effect of trade policy on fundamental rights at work, and the advocacy of tea worker organisations for trade agreements that incorporate binding and enforceable labour standards provisions.

22.2 The EU Corporate Sustainability Due Diligence Directive and Its Implications for Tea Supply Chains

The EU Corporate Sustainability Due Diligence Directive (CS3D), adopted in 2024 and entering into force progressively from 2025 onward, represents the most ambitious experiment to date in the use of EU law to influence labour conditions in global supply chains. The CS3D requires large EU companies and companies doing significant business in the EU to conduct human rights and environmental due diligence throughout their value chains, to identify and address adverse impacts, and to report on their due diligence processes.

For tea, which is one of the major agricultural imports into the EU from South Asia and East Africa, the CS3D has the potential to transform the incentive structure for labour standards compliance throughout the supply chain. If EU-based tea importers and retailers are legally required to identify and address human rights violations in their supply chains, they will have a powerful commercial incentive to ensure that their suppliers (including estate owners and smallholder farmers) meet minimum labour standards. Non-compliance creates the risk of regulatory penalties, civil liability, and the reputational consequences of being identified as sourcing from suppliers with poor human rights records.

The legal complexity of applying the CS3D to tea supply chains is considerable. The chains are long and multi-layered, involving estate owners, tea processors, exporters, importers, brokers, packers, and retailers across multiple jurisdictions. The attribution of responsibility for human rights violations at the estate level to a retailer at the top of the chain requires careful analysis of the extent to which the retailer exercises "leverage" over the estate (defined in the CS3D framework as the ability to bring about change in the practices of the supplier) and the reasonableness of the retailer's due diligence efforts.

The implementation of the CS3D is creating new professional opportunities for lawyers, compliance specialists, and sustainability consultants with expertise in tea supply chain governance, and it is generating a growing body of soft law guidance (from the European Commission, from industry associations, and from civil society organisations) on the specific human rights risks in tea supply chains and the due diligence measures appropriate to address them.

CHAPTER TWENTY-THREE: LEGAL EDUCATION, TRAINING, AND PROFESSIONAL DEVELOPMENT IN TEA LAW: A DETAILED ANALYSIS

23.1 The Educational Infrastructure of Tea Law Practice

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The legal education and training infrastructure for tea law practice is inadequate in almost every tea-producing country relative to the complexity and importance of the field. As noted in Part One, few law schools offer dedicated courses in agricultural law or plantation labour law, and the theoretical foundations of the field are not systematically taught. The result is a profession that is generally underprepared for the specific challenges of tea law practice.

This educational inadequacy has real consequences for the quality of legal services available to both employers and workers in the tea sector. Estate management that lacks access to specialist legal advice on the implications of the new Labour Codes, on their obligations under the CS3D, or on the proper application of the minimum wage notification of April 2026, faces real legal risk. Workers and unions that lack access to legal advisers who understand the interplay between constitutional rights, statutory provisions, and the specific realities of the plantation workplace face even greater disadvantages.

The development of specialist legal education in tea law requires investment at multiple levels. At the academic level, it requires the development of courses, textbooks, and research programmes that give legal scholars and students access to the body of knowledge that the field requires. This textbook is a contribution to that academic infrastructure. At the professional level, it requires continuing legal education programmes that enable practising lawyers to develop expertise in specific aspects of tea law: minimum wage proceedings, bonus adjudication, retrenchment law, POSH Act compliance, social security law, and the emerging areas of supply chain due diligence and digital labour regulation.

23.2 Legal Aid and Access to Justice in Tea-Growing Communities

The access to justice problem in tea-growing communities is one of the most serious and least addressed aspects of tea law. The combination of geographical remoteness, economic poverty, illiteracy, lack of awareness of rights, and the social isolation of plantation communities creates barriers to access to the legal system that are among the highest for any identifiable group in South Asian societies.

The National Legal Services Authority (NALSA) and the District Legal Services Authorities (DLSAs) in India are legally required to provide free legal aid to members of weaker sections of society, including tea workers who fall below specified income thresholds. The Legal Services Authorities Act 1987 entitles scheduled castes, scheduled tribes, women, children, victims of trafficking, persons with disabilities, and persons in custody to free legal aid. A large proportion of tea workers fall within one or more of these categories and are in principle entitled to free legal aid.

In practice, the reach of the legal services authorities into remote plantation areas is limited. NALSA has in recent years made efforts to extend legal awareness and legal aid to plantation communities through mobile legal aid clinics, paralegal training programmes, and collaboration with civil society organisations. The effectiveness of these efforts has varied, and systematic data on the uptake of legal aid by tea workers is not readily available.

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The paralegal model, under which trained community members (who are not qualified lawyers) provide basic legal information and assistance, refer cases to qualified lawyers, and serve as a bridge between the community and the formal legal system, has been piloted in some tea-growing areas with promising results. The legal framework governing the role of paralegals in India (including the prohibitions on unauthorised practice of law under the Advocates Act 1961) creates certain constraints on what paralegals can do, but within those constraints there is significant space for the development of effective community-based legal support.

23.3 The Training of Labour Inspectors and Plantation Labour Administrators

The quality and effectiveness of the labour inspection system in tea-growing areas is a function not only of the number of inspectors but of their training, their understanding of the specific legal framework applicable to plantations, and their professional integrity. The inspection function under the new Labour Codes is exercised by "Inspector-cum-Facilitators" (a new designation that reflects the Code's emphasis on facilitating compliance as well as enforcing it), who are required to combine inspection functions with advice and guidance to employers on compliance.

The training of labour inspectors for plantation duty needs to cover not only the formal content of the Labour Codes and their implementing rules but the practical skills of investigating violations (including the detection of wage fraud, falsified records, and the disguised employment of child labour), communicating effectively with workers in their own languages, understanding the social and cultural context of plantation communities, and recognising the signs of coercive labour practices including bonded labour and trafficking.

The ILO's Labour Administration, Labour Inspection and Occupational Safety and Health Branch (LABADMIN/OSH) has developed training materials and methodologies for labour inspection in the agricultural sector, including the plantation sector, that can serve as a resource for the development of national training programmes. The THIRST Tea network and other civil society organisations working in the tea sector have also developed training resources on workers' rights and employer obligations that can complement formal inspector training.

23.4 Specialised Training for Tea Industry HR Professionals and Compliance Officers

On the employer side, the implementation of the new Labour Codes has created an urgent need for training in the specific obligations of plantation employers under the new framework. Human resources professionals and compliance officers at tea companies need to understand the implications of the new wage definition, the gratuity changes, the social security extensions, the equal remuneration provisions, the maternity benefit amendments, the standing orders requirements, and the new industrial relations framework.

This training need is being partially addressed by professional associations, management consultancies, and law firms that are developing Labour Code compliance programmes for their corporate clients. However, the coverage of these programmes is uneven: large companies with sophisticated HR functions are well placed to obtain the advice they need, while smaller estate

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operators may lack both the awareness that their compliance obligations have changed and the resources to obtain specialist advice.

The Tea Board of India's development function, and the state governments' plantation labour departments, have a role to play in ensuring that smaller operators are aware of and able to comply with their obligations under the new framework. The Tea Board's existing networks for the dissemination of agronomic and quality information to growers could potentially be extended to cover labour law compliance information as well, creating an integrated advisory service that addresses both the production and the employment law dimensions of estate management.

CONCLUSION TO PART TWO: LAW AND LIVES IN THE TEA GARDEN

Part Two of this textbook has examined the substantive legal framework governing the daily conditions of tea workers: the wages they are paid, the hours they work, the safety and health protections they are entitled to, the social security they can claim, the collective rights they hold, and the legal framework that applies when their employment ends. The picture that emerges is one of a legal framework that is formally more sophisticated and more protective than its predecessor, following the implementation of the four Labour Codes on 21 November 2025, but that continues to fall short of the living wage standard, the international labour standards benchmark, and the constitutional vision of dignified work in multiple important respects.

The April 2026 wage hike in Assam, bringing the daily minimum wage in the Brahmaputra Valley to Rs. 280, is a concrete improvement that will directly benefit hundreds of thousands of workers. The extension of gratuity to fixed-term employees after one year of service, the strengthened equal remuneration provisions, the expansion of social security coverage, and the new annual health check-up entitlement are all genuine advances. The legal scholar and practitioner must acknowledge these advances honestly.

But the honest acknowledgement of progress must not shade into complacency. The gap between the revised wage and the living wage remains large. The implementation of the new Codes is still in its early stages, and the track record of previous reforms suggests that the distance between the formal legal framework and its practical enforcement will be substantial. The structural features of the plantation system that create conditions of dependence and vulnerability for workers, the tied housing, the geographical isolation, the concentrated employer power, and the limited exit options, are not addressed by the Labour Codes and will not be addressed by wage notifications. The fundamental transformation that Part One's philosophical analysis identified as necessary, a transformation in the power relations that determine who shapes the law and for whose benefit, has not been achieved by the Labour Codes implementation, and the social movement work and political struggle that alone can bring about such a transformation continues.

Part Three will turn to the commercial law of tea: the regulation of quality, the law of intellectual property as it applies to the tea trade, the legal framework of tea auctions, and the complex web

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of international trade agreements that determines the conditions under which tea moves from the garden to the global consumer. In this commercial legal landscape, as in the labour law landscape, the foundational questions of justice, power, and the distribution of the value generated by the labour of millions of workers remain central.

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End of Part Two

Part Three: The Commercial Law of Tea: Quality Regulation, Intellectual Property, Auction Law, and International Trade will follow.

PART THREE: THE COMMERCIAL LAW OF TEA: QUALITY REGULATION, INTELLECTUAL PROPERTY, AUCTION LAW, AND INTERNATIONAL TRADE

FOREWORD TO PART THREE

There is a particular kind of legal blindness that afflicts those who study the law of industries. It is the tendency to separate the commercial from the social, the market from the moral, and the price from the person who produced it. In tea law, this blindness is especially consequential, because the commercial architecture of the global tea trade is not merely an abstract structure of contracts, tariffs, and quality standards. It is a structure that directly determines whether a plucking woman in Assam earns a subsistence wage or a living wage, whether a smallholder farmer in Kenya has bargaining power or is at the mercy of a monopsonist buyer, whether the premium that consumers pay for a celebrated Darjeeling first flush actually flows to the workers whose hands picked it, or is absorbed by the layers of intermediaries, auction houses, blenders, and retailers who stand between the garden and the teacup.

Part Three of this textbook is dedicated to the commercial law of tea. It is the longest and in some respects the most technically demanding part of this work, because the commercial law of tea is genuinely complex. It spans multiple legal disciplines: contract law, intellectual property law, food safety law, trade law, competition law, corporate law, and the emerging jurisprudence of digital commerce. It operates across multiple jurisdictions: the national legal systems of producing countries, the trade law frameworks of the World Trade Organization, the import

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regulations of consuming nations, and the increasingly important soft law frameworks of international standards bodies, sustainability certification schemes, and corporate social responsibility initiatives.

But the technical complexity of this field should not distract us from its fundamental human significance. Every legal rule governing the quality of tea, the protection of geographical indications, the conduct of tea auctions, the terms of trade agreements, or the obligations of exporters has consequences for real people. Understanding those consequences, and asking persistently whether the law as it stands is just and whether it can be made more just, is the animating jurisprudential purpose of this part of the textbook.

Part Three is organised around seven major themes. The first is the jurisprudence of tea quality: the legal frameworks that govern standards, testing, certification, and food safety, and the philosophical questions about the nature and purposes of quality regulation that those frameworks raise. The second is intellectual property and tea: the law of geographical indications, certification trademarks, and trade marks, with particular depth of analysis of the Darjeeling controversy and its theoretical implications. The third is the law of tea auctions: the historical development, current legal structure, competitive dynamics, and emergent digital transformation of the auction systems that remain the dominant mechanism for price discovery in the South Asian and East African tea markets. The fourth is international trade law: the WTO framework, the Agreement on Agriculture, the provisions on geographical indications under TRIPS, and the network of bilateral and preferential trade agreements that shape market access for tea. The fifth is export regulation: the legal frameworks governing the quality, labelling, and documentation requirements for tea entering export markets. The sixth is smallholder contract law: the legal framework governing the relationship between the millions of smallholder farmers who grow tea and the factories, companies, and cooperatives that buy their green leaf. The seventh is corporate governance and sustainability: the legal obligations of tea companies in relation to environmental, social, and governance matters, and the emerging body of mandatory supply chain due diligence law.

Throughout all of these themes, the jurisprudential and philosophical questions that animate this textbook as a whole will be pursued with full rigor. What theory of market regulation justifies the intervention of the state in the quality of tea? What does the philosophical debate about intellectual property between lockeans, utilitarians, and communitarians tell us about the justice of geographical indication protection? What does the economics of auction theory reveal about the distributive justice of auction markets? What does Rawlsian political philosophy say about the legitimacy of trade agreements that benefit consuming nations at the expense of producing communities? These questions are not separate from the technical legal analysis. They are its foundation.

CHAPTER TWENTY-FOUR: THE JURISPRUDENCE OF TEA QUALITY: STANDARDS, CERTIFICATION, AND THE PHILOSOPHY OF FOOD LAW

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24.1 What Does Quality Mean in the Law of Tea?

The concept of quality is, at first glance, a simple one. A product is of good quality if it meets certain standards, and of poor quality if it does not. But when one interrogates the concept of quality in the specific context of tea law, the simplicity dissolves rapidly into a tangle of normative, epistemological, and political questions that reveal the depth of the regulatory challenge.

Quality in tea, as in any agricultural commodity, is multidimensional. There is physical quality: the appearance of the made tea, its colour, its leaf grade, its freedom from contamination by foreign matter, its moisture content. There is chemical quality: the levels of certain compounds that determine its safety for consumption, including pesticide residues, heavy metals, and microbiological contaminants. There is flavour quality: the sensory characteristics of the brewed liquor, its colour, aroma, taste, and mouthfeel, assessed by trained tea tasters using a vocabulary of extraordinary precision and considerable subjectivity. There is process quality: the question of whether the tea was produced using specified methods that conform to the standards associated with a particular product category or geographical designation. And there is what we might call social quality: an emerging concept in the law of sustainability certification that encompasses the labour conditions, environmental practices, and governance standards of the producing estate or farm.

Each of these dimensions of quality is governed by different legal frameworks, operated by different institutions, and informed by different philosophical premises. Physical quality standards are typically set by national food safety authorities and implemented by the tea board or equivalent regulatory body. Chemical safety standards are set by national food safety legislation, informed by international standards such as those of the Codex Alimentarius Commission. Flavour quality is assessed by private buyers and regulated only indirectly through the grading systems of auction centres. Process quality is the domain of origin-specific regulations and certification schemes. Social quality is the subject of voluntary sustainability standards, increasingly reinforced by mandatory supply chain due diligence legislation.

The jurisprudence of quality regulation in tea law must engage with a fundamental theoretical question: what is the legitimate purpose of quality regulation, and who has the right to define what quality means? This question connects to some of the deepest debates in the philosophy of regulatory law.

24.2 Theories of Quality Regulation: Between Consumer Protection and Producer Control

The classical justification for quality regulation is consumer protection. In the tradition of liberal political philosophy deriving from John Stuart Mill, the state is entitled to regulate the market where necessary to protect individuals from harm, including the harm caused by purchasing a product that does not conform to the qualities that the seller represents or implies. A consumer who purchases a product labelled as Darjeeling tea is entitled to receive a product that actually is Darjeeling tea, with the specific qualities associated with that denomination. A consumer who

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purchases tea is entitled to receive a product free from pesticide residues at levels that would damage their health. On this classical liberal view, quality regulation is justified precisely to the extent that it prevents harm to consumers by correcting information asymmetries and enforcing honest dealing.

But the consumer protection rationale, while genuine, does not fully account for the actual structure of tea quality regulation. Much of what tea quality regulation does is not simply to protect consumers from harm. It is to protect the economic interests of particular producers, to manage the competitive dynamics of the market, and to enforce standards that reflect the preferences and judgements of powerful actors within the industry. The grading systems of auction centres, for example, were established primarily by and for the convenience of buyers and brokers, not consumers. The pest residue standards established by importing countries sometimes reflect not genuine safety concerns but protectionist objectives, setting residue limits that are extremely difficult for producing countries to meet while coincidentally reducing their competitive position in the importing market.

This observation connects to a broader debate in the jurisprudence of regulatory law about the phenomenon of regulatory capture: the tendency of regulatory agencies to come to serve the interests of the industry they are supposed to regulate rather than the wider public interest. George Stigler's classic account of regulatory capture, developed in his 1971 article "The Theory of Economic Regulation," argued that regulation is typically sought by industry and is designed and operated primarily for its industry's benefit. In the context of tea quality regulation, the capture argument has real force. Tea boards, the primary national regulatory authorities for tea, are heavily represented by industry interests. The standards they set, the grading systems they operate, and the enforcement priorities they pursue frequently reflect the preferences of large estate owners and established buyers rather than the interests of workers, smallholders, or consumers.

A third theoretical perspective comes from the communitarian tradition, associated in contemporary jurisprudence with philosophers like Michael Sandel and Charles Taylor. On the communitarian view, quality standards for distinctive regional products like Darjeeling tea are not merely economic or consumer-oriented. They are expressions of a community's identity, embodying a connection to place, tradition, and knowledge that has value independent of its market consequences. Quality standards that protect the distinctive character of a tea from a particular geographical region are, on this view, instruments of cultural self-determination as much as instruments of commercial regulation. The community of Darjeeling tea growers, processors, and workers has a legitimate interest in controlling the conditions under which the Darjeeling name is used, not merely because this protects their market position but because it preserves something of genuine cultural importance.

This communitarian perspective has significant implications for the structure of quality regulation in tea law. It suggests that the determination of quality standards for origin-specific teas should be a democratic and participatory process, involving the communities whose identities are implicated, rather than a technocratic or market-driven process controlled by

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regulators and buyers. It also suggests that the benefits of quality protection should flow to those communities, including the workers whose labour creates the quality, rather than being captured primarily by estate owners and exporters.

24.3 The Codex Alimentarius and Its Role in Tea Quality Law

The international framework for food quality and safety standards is provided primarily by the Codex Alimentarius Commission, a joint body of the United Nations Food and Agriculture Organization (FAO) and the World Health Organisation (WHO), established in 1963. The Codex Alimentarius ("food code" in Latin) is a collection of internationally adopted food standards, guidelines, and codes of practice that serve as reference points for national food safety legislation and for international trade disputes under the framework of the WTO's Agreement on Sanitary and Phytosanitary Measures (SPS Agreement).

For tea, the Codex Alimentarius has developed standards through the work of its Committee on Contaminants in Foods (CCCF) and the relevant commodity committee. The most legally significant aspects of the Codex framework for tea are the maximum residue limits (MRLs) for pesticides, which determine the maximum concentrations of pesticide residues that may be present in tea marketed for consumption. The setting of MRLs involves a technically complex risk assessment process, drawing on toxicological data to determine the daily intake of each pesticide that poses no risk to human health, and then calculating the residue level in the food that would be consistent with that acceptable daily intake.

The politics of Codex MRL-setting for tea is a fascinating and often contentious area of international food law. Because the major importing countries (Japan, the European Union, the United States) have their own national MRL standards, and because the Codex MRLs serve as the international benchmark against which national standards are evaluated under the SPS Agreement, the standard-setting process is heavily contested. Producing countries like India, Kenya, and Sri Lanka have an interest in MRLs that reflect agronomic realities in tropical tea-growing conditions, including the pest pressures that necessitate particular pesticides and the detection limits of available testing technology. Importing countries and their agricultural chemical regulatory bodies have complex interests that do not always align with the interests of producing countries.

The European Union has been particularly active in setting pesticide MRLs for tea that are significantly more stringent than Codex standards. The EU's food safety framework, governed by Regulation (EC) No 396/2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin, applies the precautionary principle aggressively, setting default MRLs at the limit of analytical detection for any pesticide not specifically evaluated, regardless of whether there is any evidence of harm at the levels typically found in tea. The practical consequence of this approach has been a series of episodes in which significant quantities of tea from India, Kenya, and Sri Lanka have been rejected at EU borders because they contain pesticide residues above EU limits, even where those residues are within Codex limits and far below levels that would pose any assessed health risk.

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This tension between the EU's regulatory approach and the interests of tea-exporting countries is not merely a technical dispute about risk assessment methodology. It is a contest about regulatory sovereignty, about who has the right to set the standards that govern global trade in a commodity produced in the Global South for consumption largely in the Global North. The SPS Agreement's requirement that national standards be based on international (Codex) standards, unless a country can justify higher standards on the basis of a proper risk assessment, is supposed to discipline this kind of regulatory protectionism. But the evidentiary requirements for justifying a departure from Codex standards are modest, and the EU has successfully defended many of its more stringent MRLs before WTO dispute settlement panels by invoking the precautionary principle and the need to protect consumer health.

The jurisprudential question raised by this dynamic is fundamental: is it legitimate for wealthy consuming nations to use food safety regulation to impose burdens on producing countries that exceed what science demonstrates to be necessary for consumer protection? The SPS Agreement's jurisprudence says yes, provided a genuine risk assessment is conducted. But critics, including many scholars of international trade law and development economics, argue that this permissive approach to regulatory non-equivalence perpetuates colonial structures of economic subordination in which the standards of Northern consumers take priority over the economic welfare of Southern producers.

24.4 Food Safety Law in Tea-Producing Countries

At the national level, the food safety law governing tea in major producing countries has undergone significant reform in the first quarter of the twenty-first century. In India, the Food Safety and Standards Act, 2006 (FSSA) consolidated and replaced the previous patchwork of food safety legislation, establishing the Food Safety and Standards Authority of India (FSSAI) as the central regulatory body for food safety standards. The FSSA applies to tea in a complex way: tea is simultaneously regulated as a food product by FSSAI and as an agricultural commodity by the Tea Board of India, and the division of regulatory jurisdiction between these two bodies has not always been clearly defined or coherently exercised.

The FSSAI has progressively developed specific standards for tea under the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, which prescribe maximum residue limits, standards for moisture content, freedom from adulterants, and other quality parameters. These regulations interact with, and sometimes duplicate or conflict with, the Tea Board's own quality standards and the auction centre grading requirements. The resulting regulatory landscape is complex enough to challenge even experienced practitioners.

The situation is further complicated by the increasing consumer interest in organic tea, which is governed not only by general food safety law but by specific organic certification frameworks. The National Programme for Organic Production (NPOP) in India, administered by the Agricultural and Processed Food Products Export Development Authority (APEDA), provides the domestic framework for organic certification, while export of organic tea to specific markets requires compliance with the organic standards of those markets (the EU Organic Regulation, the

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USDA National Organic Program, Japan's JAS organic standards). The legal framework for organic tea is therefore a multi-layered structure of national and international standards, implemented by a combination of public authorities and private certification bodies, and enforced through a combination of administrative action and private contract.

24.5 The FSSAI Tea Regulations of 2025 and Their Significance

In December 2024, the FSSAI published revised draft regulations for tea under its Food Safety and Standards (Food Products Standards) framework, which were finalised and notified in early 2025. These revised regulations represented the most comprehensive overhaul of the food safety framework for tea in India in more than a decade, and their significance for the tea industry cannot be overstated.

The key changes introduced by the 2025 regulations included revised maximum residue limits for pesticides in made tea, updated standards for microbiological contamination, new requirements for origin labelling and disclosure, revised definitions of tea product categories that had important implications for the legality of blended and flavoured products, and enhanced requirements for traceability documentation from the point of plucking to the point of export or retail sale.

The revised MRLs represented a substantial tightening of the permissible pesticide residue levels for many commonly used agrochemicals in tea cultivation. The regulatory rationale offered by the FSSAI for this tightening was alignment with international standards and enhanced consumer protection. Industry bodies, particularly the Tea Association of India and the South Indian Tea Exporters Association, raised significant concerns about the feasibility of meeting the revised MRLs given existing agronomic practices, particularly in estates facing significant pest pressure. They argued that the transition period provided was insufficient and that the revised standards would lead to increased costs of production, rejection of tea at export, and in the worst case the cessation of cultivation on marginal estates.

These concerns raised important jurisprudential questions about the legitimacy of the regulatory process. Were the revised MRLs the product of adequate consultation with affected producers and workers? Was the risk assessment underlying the new standards conducted transparently and with appropriate engagement of scientific expertise? Were the transition provisions adequate to allow the industry to adapt without causing serious economic harm? These are not merely technical regulatory questions. They are questions about procedural fairness, democratic accountability, and the rule of law in the exercise of regulatory power, questions that connect directly to the principles of natural justice and legitimate expectation that are foundational to Indian administrative law.

24.6 Tea Grading Systems: Private Standards, Public Consequences

Alongside the formal public law of food safety regulation, the quality of tea is significantly governed by private grading systems that have the force of industry practice without the formal

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status of law. The grading systems of the major auction centres, particularly those of the Guwahati Tea Auction Centre, the Calcutta Tea Auction Centre, the Cochin Tea Auction Centre in India, the Colombo Tea Auction in Sri Lanka, and the Mombasa Tea Auction in Kenya, classify made tea according to a hierarchical system of leaf grades that reflects the size and processing characteristics of the leaf.

The major grade categories in the South Asian tradition are: Whole Leaf (including Orange Pekoe, Flowery Orange Pekoe, and their flowery equivalents), Broken Leaf (including Broken Orange Pekoe, Broken Orange Pekoe Fannings), Fannings (smaller grades used predominantly in tea bags), and Dust (the finest grade used in tea bags and institutional catering). Within each of these broad categories there are numerous sub-grades, the nomenclature of which varies between centres and has evolved over time in ways that do not always correspond to consistent quality characteristics.

The legal significance of these private grading systems is substantial. The grade assigned to a parcel of tea determines its catalogue description at auction, which in turn determines the price range within which it will be bid. Tea that is misgraded, whether through inadequate processing, fraudulent manipulation, or simply the subjective judgement of the grading officer, may receive a price significantly below its true market value or, conversely, may be sold at a premium it does not deserve. The incidence of grading fraud, while difficult to quantify precisely, has been a recurrent subject of complaint by industry participants, particularly smallholder farmers and small estate operators who lack the market knowledge or professional resources to challenge adverse grading decisions.

The grading system is also significant for workers. The wages of workers in CTC (crush, tear, curl) tea factories are often structured partly around output quality, with workers receiving bonuses or deductions based on the quality of the tea produced on their shift. Where grading criteria are subjective or where grading decisions are made by supervisors who have interests distinct from those of the workers, this piece-rate quality element of the wage structure can become a mechanism for wage suppression, imposing arbitrary deductions for quality failures that workers have no power to contest.

The jurisprudence of private standards and their relationship to public law is an area of considerable scholarly interest. When a private grading system has practical consequences equivalent to those of a public regulation, what legal obligations of transparency, fairness, and accountability should apply to the body operating that system? Should the tea auction centre grading system be subject to administrative law principles of procedural fairness, given the quasi-regulatory role it performs? These questions do not have settled answers in Indian or East African law, and they represent an important frontier for the development of tea law jurisprudence.

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CHAPTER TWENTY-FIVE: INTELLECTUAL PROPERTY AND TEA: GEOGRAPHICAL INDICATIONS, TRADEMARKS, AND THE BATTLE FOR ORIGIN

25.1 The Theory of Geographical Indications: Place, Identity, and Economic Value

Of all the areas of intellectual property law that touch the tea industry, the law of geographical indications (GIs) is the most philosophically rich and the most practically contested. A geographical indication, as defined by Article 22.1 of the TRIPS Agreement, is "an indication which identifies a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin." This apparently simple definition opens a door onto a range of complex theoretical questions about the nature of intellectual property, the relationship between place and product identity, the justice of monopoly rights, and the distribution of economic benefits in globalised commodity markets.

The philosophical justification for GI protection is distinct from the justifications offered for other forms of intellectual property. Patent protection is typically justified by reference to the need to incentivise innovation by granting inventors a temporary monopoly return on their investment. Copyright protection is justified by reference to both the incentive argument and the personality argument (deriving from Kant and Hegel) that creative works are expressions of their authors' personality and therefore warrant protection as an extension of personal identity. Trademark protection is justified primarily by its consumer protection function: trademarks reduce consumer search costs by enabling consumers to identify the source of goods and associate them with reliable quality indicators.

GI protection does not fit neatly into any of these frameworks. It protects not an individual's invention or creation or commercial reputation, but the collective productive identity of a geographical community. It acknowledges that certain products derive qualities that cannot be replicated elsewhere from the specific combination of natural factors (soil, climate, altitude, water) and human factors (traditional knowledge, cultivation practices, processing skills) that characterise a particular place. The French concept of "terroir," which originated in the wine law of Burgundy and Bordeaux but has been extended in GI theory to many agricultural products including tea, captures this idea of the inseparable unity of place and product character.

For Darjeeling tea, the concept of terroir has a particularly compelling empirical basis, as noted in the rich academic and legal literature on the subject. The altitude, intermittent cloud and sunshine, soil characteristics, temperature, rainfall, fog, mist, moisture and wind, combined with human factors including the specific know-how and culture of Darjeeling tea cultivation, and the use of Chinese hybrid tea bushes, all contribute to make Darjeeling tea a unique and inimitable product. FAO The quality, reputation, and characteristics of Darjeeling tea are inseparable from its geographical origin in the hills of the Darjeeling district of West Bengal.

But the terroir concept, compelling as it is, raises as many questions as it answers in the context of GI jurisprudence. If the distinctive quality of Darjeeling tea derives from the combination of

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natural and human factors, what happens when those natural factors change, as climate change is already causing? If the traditional cultivation and processing practices evolve, as they inevitably will under the pressure of economic necessity and technological change, does the GI protection remain valid? And most significantly for labour jurisprudence: if the human knowledge and skill of the workers of Darjeeling is part of what creates the distinctive quality of the tea, should those workers not have some legally recognised share in the intellectual property value associated with the GI?

25.2 The History of Darjeeling Tea's GI Protection: From Certification Trade Mark to First Indian GI

The history of the legal protection of Darjeeling tea as a geographical indication is a case study in the evolution of intellectual property law in response to the specific challenges of protecting a premium agricultural origin product in a world of globalised trade and sophisticated counterfeiting.

The first attempt by the Tea Board of India towards protection of the Darjeeling brand was undertaken way back in 1983, when the Darjeeling logo was created. The Tea Board obtained domestic protection for the Darjeeling logo as a certification trademark under the Indian Trade and Merchandise Marks Act 1958. Altacit The certification trademark, as a legal instrument, differs from a regular trademark in that it is not owned by a commercial enterprise seeking to protect its own brand identity, but by a certifying body that uses the mark to attest that goods bearing it conform to specified standards. The Tea Board of India's certification trademark registered the Darjeeling logo as a guarantee that the tea bearing it was 100 percent Darjeeling tea produced in the gardens of the Darjeeling district.

The certification trademark system was an innovative use of an existing legal instrument to address the specific problems of origin protection, but it had significant limitations. Certification trademarks operate within national legal systems and are primarily effective within the jurisdiction of the registering country. Protection in foreign markets required separate applications in each country, a process that was both expensive and uncertain. Moreover, the scope of protection offered by a certification trademark was uncertain in relation to uses of the Darjeeling name for products other than tea, a limitation that would become the subject of landmark litigation in the Tea Board v. ITC Limited case.

India enacted the Geographical Indications of Goods (Registration and Protection) Act, providing a legal framework for the registration and protection of GI products. The Tea Board of India filed for GI registration for Darjeeling tea due to its uniqueness and the need for legal protection. The Legal School The Tea Board applied for Geographical Indication protection of Darjeeling in 2003, after the Geographical Indication Act was passed in India. Darjeeling was conferred GI designation in India in 2004, making it the first product in India to receive the GI status. Ijfans

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The achievement of becoming India's first registered GI was both symbolically and practically significant. It demonstrated the viability of the GI registration system established by the 1999 Act, opened the way for subsequent GI registrations for hundreds of Indian origin products, and provided the Tea Board with an enhanced legal basis for pursuing enforcement actions against unauthorized uses of the Darjeeling name in India and abroad.

25.3 The International Dimension: Darjeeling Under TRIPS and the Campaign for Enhanced GI Protection

The international dimension of Darjeeling tea's GI protection is governed by the TRIPS Agreement, which since its adoption in 1994 as part of the Uruguay Round agreements has provided the primary international intellectual property framework for GIs. The TRIPS Agreement creates a two-tier system of GI protection. Article 22 requires all WTO Members to provide legal means for interested parties to prevent the use of geographical indications that misrepresent the origin of goods or constitute unfair competition. Article 23 provides enhanced protection for geographical indications for wines and spirits, requiring protection even where the true origin of the goods is disclosed and even where the GI is accompanied by terms like "kind," "type," or "style."

India, along with many other developing countries that are significant producers of distinctive geographical origin products including tea, coffee, and agricultural commodities, has long advocated at the WTO for the extension of the enhanced TRIPS Article 23 protection to products beyond wines and spirits. The argument is straightforward in logic: if it is legitimate to prevent a wine producer from labelling their product "Burgundy-type" or "Champagne-style" on the grounds that such labelling free-rides on the reputation of the protected geographical indication, it is equally legitimate to prevent a tea manufacturer from labelling their product "Darjeeling-style" or "Assam-type." The current asymmetry in TRIPS protection, which affords greater protection to the geographical designations of the Old World wine-producing countries than to the agricultural origin designations of the developing world, is a form of structural injustice embedded in international intellectual property law.

The campaign for the extension of Article 23 protection to other products has been a persistent theme of India's and other developing countries' positions in the TRIPS Council and the WTO's Doha Development Round negotiations. It has not yet succeeded, primarily because of the opposition of major wine and spirit importing countries, particularly the United States and Australia, which have developed significant domestic wine industries that historically used European geographical names (Champagne, Burgundy, Chianti) as generic terms for wine styles, and whose domestic wine industries would be adversely affected by an international requirement to cease such uses.

India has fought against multiple instances of the unauthorized use and registration of the Darjeeling name in various countries. The Tea Board fought almost 15 cases in several years against infringement and misuse of the word Darjeeling Tea worldwide, including in Russia, USA, Japan, France, Germany, Israel, Norway, and Sri Lanka. WTO

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These enforcement battles reveal the practical limitations of the current international GI protection framework. While TRIPS creates an obligation for WTO Members to provide legal means of protecting geographical indications, the specific legal instruments through which that protection is provided vary enormously between jurisdictions, and the burden and expense of pursuing enforcement actions country by country falls primarily on the Tea Board of India, a statutory body with limited resources relative to the scale of the enforcement challenge.

25.4 Tea Board of India v. ITC Limited: A Landmark Case in Indian GI Jurisprudence

The case of Tea Board of India v. ITC Limited, decided by the Calcutta High Court in 2019, is the first and most important judicial decision on the scope of GI protection in India. It raises fundamental questions about the nature of GI rights, the relationship between GI registration and certification trademark protection, and the limits of intellectual property rights in relation to the use of geographical names in non-competing markets.

The factual background of the case is straightforward. ITC Limited, one of India's largest conglomerate companies, opened a lounge at its luxury hotel in Kolkata which it called the "Darjeeling Lounge." The Darjeeling lounge was introduced by ITC in January 2003. The plaintiff Tea Board, a state agency established to promote cultivation and trade of tea, held registrations for Darjeeling for tea as a geographical indication and a certification mark. In April 2005, the Tea Board allegedly became aware of ITC's trademark application for Darjeeling lounge. After prolonged exchange of notices, the plaintiff filed suit in September 2010 before the Court requesting a perpetual injunction against the alleged infringer. Wolterskluwer

The Court's analysis of the case turned on several crucial legal questions. The first was whether the GI Act, 1999, which protects the GI for Darjeeling in relation to tea, extended to uses of the word "Darjeeling" in relation to services (a hotel lounge) rather than goods (tea). The GI Act defines unfair competition as "any act of competition contrary to honest practice in commercial matters" which includes acts meant to create confusion or discredit the establishment, goods or commercial activities of a competitor. The Court noted that there was no competition between the alleged infringer, which operates in the hotel market, and Tea Board which certifies tea bearing the name Darjeeling as being 100 percent Darjeeling tea originating from the 87 tea gardens in Darjeeling district of West Bengal. Therefore, there was no scope for unfair competition. Wolterskluwer

The Court's conclusion that there was no competition between ITC's hotel lounge and the Tea Board's tea certification activity may be correct as a matter of formal market analysis, but it misses something important about the nature of GI protection. The value of the Darjeeling geographical indication is not merely its function as an indicator of geographical origin for tea. It is the reputation, the associations, the quality signal, and the cultural identity that the name "Darjeeling" carries in the minds of consumers worldwide. When ITC uses that reputation to add value to its hotel lounge, branding the lounge with the evocative associations of luxury, refinement, and distinctiveness that the Darjeeling name carries, it is, in a meaningful economic

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and moral sense, free-riding on the investment of the Darjeeling tea community in building and maintaining that reputation.

The theoretical framework most helpful for understanding why the Court's analysis is inadequate is the concept of "dilution" of intellectual property value. In trademark law, dilution refers to the weakening of the distinctive quality of a famous mark by its use in connection with goods or services unrelated to those for which the mark is famous. If a consumer, encountering the "Darjeeling Lounge" at an ITC hotel, begins to associate the word "Darjeeling" with luxury hospitality services as well as premium tea, the distinctive function of the GI is weakened. The Court's analysis did not adequately address this dilution concern, and the case remains an example of the inadequacy of Indian GI law in protecting the full economic value of geographical indications.

25.5 The Nepal Question: Cross-Border GI Challenges in the Tea Trade

One of the most persistent practical controversies in the protection of Darjeeling tea's GI relates to the tea produced in Nepal's Ilam and Taplejung districts. The Nepali tea-growing regions are geographically contiguous with Darjeeling, share similar soil and climatic conditions, use similar cultivars and processing methods, and produce teas with flavour profiles that in some respects resemble genuine Darjeeling teas. There is a well-documented and long-standing practice of Nepali tea, or tea blended with Nepali leaf, being sold in various markets as Darjeeling tea, either explicitly or implicitly through the use of misleading labelling and marketing.

The legal response to this practice is complicated by several factors. Nepal is not a member of the European Union's GI protection framework, and the bilateral dimension of GI protection between India and Nepal lacks the legal infrastructure of the EU-India framework. The volume of tea produced in Nepal that finds its way, directly or indirectly, into the Darjeeling supply chain is difficult to quantify precisely, but industry estimates suggest it is substantial. The Tea Board's monitoring and enforcement capacity in relation to Nepali tea is limited.

The issue raises interesting questions of international GI law that go beyond the bilateral relationship between India and Nepal. Under the TRIPS Agreement, WTO Members are required to protect GIs against misleading use. Nepal has been a WTO Member since 2004, and is therefore in principle bound by the TRIPS obligation to prevent the misleading use of geographical indications, including the misleading representation of Nepali tea as Darjeeling tea. However, Nepal's implementing legislation for TRIPS' GI provisions is underdeveloped, and the enforcement of those provisions in relation to tea exports has not been effectively pursued.

The Nepal dimension of the Darjeeling GI protection challenge also raises a question of economic justice that the simple framework of intellectual property infringement does not fully capture. Many of the Nepali farmers growing teas in conditions and with methods similar to those of Darjeeling are themselves poor smallholders with legitimate interests in accessing premium markets. The solution to the Nepal problem cannot be simply one of enforcement against Nepali producers, because such enforcement would cause economic harm to some of the

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poorest agricultural communities in one of the world's poorest countries. A more constructive approach would involve the development of distinct GI protection for Nepali Himalayan teas, recognising the genuine quality characteristics of Nepali origin teas while distinguishing them legally from Darjeeling teas, and building the trade infrastructure necessary for Nepali teas to access premium markets on the basis of their own genuine identity.

25.6 Assam Tea and the Emerging Agenda for New GI Registrations

While Darjeeling tea has occupied the centre stage of Indian tea GI jurisprudence, the broader question of GI protection for Indian regional teas has an expanding frontier. Assam tea, the most widely traded of Indian teas and the backbone of the world's CTC tea market, presents different but equally significant GI challenges.

Assam tea does not yet have the same level of international GI enforcement as Darjeeling, partly because the market dynamics are different. Darjeeling tea is a premium product sold by the kilogram at prices that can exceed a thousand dollars per kilogram for the finest first flush lots, and the economic incentive for counterfeiting is therefore very high. Assam CTC tea is a much more mass-market product, sold by the kilogram at much lower prices, and the economics of explicit geographical fraud are less compelling. However, there are subtler forms of reputation exploitation that affect Assam tea: the use of Assam's name and reputation in the branding of tea products that may contain little or no genuine Assam origin tea, the blending of Assam tea with cheaper origins and the marketing of the blend under Assam origin claims, and the use of Assam-evocative imagery and language in marketing materials that do not constitute explicit geographical fraud but that do exploit the reputation of the origin.

The development of a comprehensive GI registration and enforcement strategy for Assam tea, aligned with the new technological opportunities discussed in the subsequent chapters of this part, is one of the most important agenda items for the Tea Board of India and the Government of Assam in the coming years. The announced AI-driven blockchain tea auction system, discussed in Chapter Twenty-Six, creates a potential technical infrastructure for enhanced origin traceability that could significantly strengthen the enforcement of Assam tea's GI.

CHAPTER TWENTY-SIX: TEA AUCTION LAW: MARKETS, MECHANISMS, AND THE DIGITAL REVOLUTION

26.1 The Historical Development of the Tea Auction System

The tea auction is one of the most distinctive institutional features of the global tea trade, and its legal structure is one of the most important areas of tea commercial law. Tea auctions are not merely an economic mechanism for price discovery. They are institutions embedded in legal frameworks governing contracts, agency, sale of goods, competition, and increasingly, the regulation of digital commerce. Understanding the legal foundations of the tea auction system

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requires both a historical perspective and a grasp of the complex interaction of private commercial law and public regulatory supervision that characterises these markets.

The origin of the tea auction in England dates to the seventeenth century. The East India Company, which held a monopoly over the import of tea into England, sold its tea by auction in London from 1679 onward. These early auctions, conducted initially by the method known as "sale by candle" (in which bids were accepted until a candle burned down), established many of the fundamental features of the tea auction system that persist to this day: the sale of standardised lots by sample, the role of professional buyers and their agents, the use of a catalogue system to describe lots, and the practice of tasting samples before sale.

The development of tea auctions in the producing countries followed the expansion of the colonial plantation system. The Calcutta Tea Auction was established in 1861, making it the oldest producing-country tea auction in the world. The Ceylon (Colombo) Auction followed in 1883, and the Cochin Auction in 1947. The Guwahati Tea Auction Centre was established in 1970, specifically to serve the growing tea production of Assam and other northeastern states without requiring tea to be transported to Calcutta for sale. The Mombasa Tea Auction, which has grown to become the largest auction in Africa, was established in Kenya in 1956 under the auspices of the then-colonial administration.

Each of these auction systems developed its own distinctive legal framework, reflecting the specific regulatory environment of the country in which it operated, the nature of the tea produced in that region, and the commercial customs and practices of the industry participants who used it. But they share a common legal architecture: a system of rules governing the eligibility of sellers (who may enter tea for sale), the eligibility of buyers (who may participate in bidding), the format of the catalogue (which lot descriptions must be provided), the sampling system (how samples are collected, distributed, and tested), the conduct of the auction itself (the mechanism of bidding, the acceptance of bids, the striking of the hammer), and the settlement and delivery obligations (how payment is made and how physical tea changes hands).

26.2 The Legal Structure of the Indian Tea Auction System

In India, the regulatory framework governing tea auctions is provided primarily by the Tea Act, 1953, and the Tea (Marketing) Control Order, 2003, made under Section 31 of the Tea Act. The Tea (Marketing) Control Order requires that a specified proportion of made tea produced on licensed estates be sold through the public auction system rather than through private sales ("ex-garden" or direct sales). This compulsory auction requirement has been a persistent subject of controversy, and its legal basis, economic rationale, and justice implications deserve careful analysis.

The rationale offered for the compulsory auction requirement is price discovery: by requiring a significant volume of tea to pass through the public auction, the system ensures that an observable market price is established for each grade and quality of tea, providing a reference point for both buyers and sellers, including those who trade outside the auction. Without a

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functioning auction market, the argument runs, the opacity of bilateral negotiation would systematically favour larger and better-informed buyers over smaller and less-informed sellers, particularly smallholder farmers who lack market intelligence.

The critics of the compulsory auction requirement, primarily large estate operators and the companies that buy and blend tea, argue that the auction adds unnecessary costs and delays to the supply chain, that the prices achieved at auction are not always superior to what could be obtained through direct negotiation with committed buyers, and that the inflexibility of the auction system prevents the development of long-term supply relationships that would benefit both buyers and sellers. They argue that the market has matured to the point where sophisticated participants do not need the protection of compulsory auction, and that the requirement constrains their commercial freedom without commensurate public benefit.

The regulation of the permissible proportion of ex-garden (direct) sales has been a subject of policy evolution over the decades since the Tea (Marketing) Control Order was first enacted. The liberalisation of the tea marketing framework, which has progressively increased the proportion of tea that can be sold by direct private sale, reflects the general direction of Indian economic policy toward market liberalisation while seeking to preserve the price discovery and information functions of the public auction.

From the perspective of smallholder farmers, however, the auction system raises a different set of concerns. Small tea growers who sell their green leaf to bought-leaf factories (BLFs) are not direct participants in the auction system: they sell their green leaf to the factory, which then processes it and sells the made tea through auction. The price the smallholder receives for their green leaf is therefore not directly determined by the auction price of the made tea, but by whatever formula the factory applies to share (or more often not to share) the auction-determined value with the leaf supplier. The legal framework governing this critical relationship between smallholder and bought-leaf factory is examined in depth in Chapter Twenty-Nine of this part.

26.3 The Colombo Auction and Its Regional Significance

The Colombo Tea Auction in Sri Lanka operates under a somewhat different legal framework from its Indian counterparts, reflecting the specific characteristics of the Sri Lankan tea industry. Sri Lanka is unique among major tea-producing countries in that virtually all of its tea passes through a single centralised auction. The auction system was established as a regulated monopoly, and while there have been periodic discussions of restructuring and liberalisation, the Colombo Auction continues to occupy a position of institutional centrality in the Sri Lankan tea trade that has no parallel in other producing countries.

The legal framework of the Colombo Auction is governed by the Sri Lanka Tea Board Act, 1975, and the regulations made thereunder. The Sri Lanka Tea Board (SLTB) exercises comprehensive regulatory oversight of the auction, setting the rules for eligibility of participants, the format of catalogues, the conduct of the auction, and the settlement of transactions. The SLTB's role in the auction is an instance of public regulatory supervision of a private market that

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raises interesting questions about the appropriate relationship between the regulator and the regulated, the risk of regulatory capture, and the design of competitive market structures.

One of the distinctive features of the Colombo Auction is the role of the licensed tea broker. In Sri Lanka, the bringing of tea to auction and the conduct of the auction itself are the exclusive preserve of licensed tea brokers, who act as agents of the selling estates. The legal relationship between the estate and its broker is one of agency, giving rise to the full range of obligations that agency law imposes: the obligation to act in the principal's best interests, to avoid conflicts of interest, to exercise reasonable care and skill, and to account for all proceeds received on the principal's behalf.

The broker system has been both defended and criticised. Its defenders argue that experienced professional brokers with deep market knowledge provide a valuable service to sellers, particularly smaller estates that lack the resources to conduct their own auction campaigns. Its critics argue that the broker system creates a powerful intermediary class with interests that are not always aligned with those of either sellers or buyers, that the brokerage fee structure (typically a fixed percentage of the auction price) creates incentives for brokers to favour high-volume, high-price lots over smaller lots, and that the concentration of brokerage in a small number of large firms creates oligopolistic conditions that limit competition in the brokerage market itself.

26.4 The Mombasa Tea Auction: African Dimensions of Tea Market Law

The Mombasa Tea Auction, established in 1956 and now trading as the East African Tea Trade Association (EATTA) auction, is the largest tea auction in Africa and indeed in the world in terms of volumes traded. It serves not only Kenya, the dominant East African tea producer, but also Uganda, Tanzania, Rwanda, Burundi, Malawi, Mozambique, Ethiopia, and the Democratic Republic of Congo. Its legal and institutional framework is therefore genuinely multinational, and its governance involves complex questions of jurisdiction, regulatory authority, and the coordination of divergent national legal systems.

The legal framework of the Mombasa Auction is governed primarily by Kenyan law (the auction operates in Mombasa, Kenya), while the EATTA itself is a multinational industry association whose membership and governance rules must accommodate the different legal traditions and regulatory requirements of all the member countries. The Kenya Tea Development Agency (KTDA), which manages the factories and marketing activities of Kenya's smallholder tea sector, is a major participant in the Mombasa Auction and its role in that auction has significant implications for the distribution of value between smallholder farmers and the various intermediaries in the Kenyan tea supply chain.

The Kenyan smallholder tea system is widely regarded as one of the most successful models of inclusive agricultural development in the world. The KTDA, established originally as a government agency and subsequently restructured as a private company fully owned by smallholder farmers through their cooperatives, provides a framework in which the

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approximately 650,000 smallholder farmers registered with the KTDA collectively own the factories that process their green leaf and receive a significant share of the auction price achieved for the made tea. The legal architecture of KTDA governance, the rights of smallholder members against the cooperative and factory management, and the transparency and accountability of the payment system are therefore critical determinants of whether the smallholder tea system delivers on its developmental promise.

But the KTDA model is not without its problems and controversies. Questions have been raised about the transparency of the KTDA's management, the adequacy of the second payment system by which smallholders receive their share of auction proceeds, the governance of factory committees, and the responsiveness of the organisation to the interests of its smaller and more marginalised members. These controversies raise important questions of cooperative law, fiduciary duty, and the rights of members against institutions that manage collective assets.

26.5 The Digital Revolution in Tea Auctions: Blockchain, AI, and the Transformation of Market Law

The tea auction system, which has operated in broadly similar form for more than a century, is now at the threshold of a transformative technological revolution. The announcement by the Government of Assam in its Budget 2025-26 of India's first AI-driven, blockchain-based tea auction system is the most concrete and advanced manifestation of a technological transformation that is reshaping the legal and commercial landscape of tea trade globally.

The Assam government unveiled a budget proposal aimed at collaborating with tea industry stakeholders to implement India's inaugural AI-driven, blockchain-based tea auctioning system. This innovative approach is designed to improve transparency and efficiency within the sector, signaling a significant advancement in the way tea auctions are conducted. Neuron Expert According to the budget, "Assam will work with tea industry stakeholders to introduce India's first AI-driven, blockchain-based tea auction system to enhance transparency and efficiency." The government asserted that this digital platform will revolutionize the tea trade by ensuring secure transactions and fair pricing. CoinGeek

The North East Tea Association welcomed the budget's proposal for an AI-driven, blockchain-based tea auctioning system, describing it as an excellent initiative. Business Standard The industry's enthusiasm for this initiative is grounded in the concrete problems that the technology is expected to address. Issues such as price manipulation and lack of transparency have long plagued the auction system. CoinGeek The blockchain component of the proposed system addresses both of these concerns by creating a distributed, immutable ledger of all auction transactions that cannot be altered by any single participant and is accessible to all authorised parties.

The legal implications of the blockchain tea auction system are profound and multi-dimensional. In the area of contract law, the use of smart contracts (self-executing contracts whose terms are directly written into lines of code on a blockchain) raises questions about the formation,

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interpretation, and enforcement of auction contracts that existing contract law doctrine is ill-equipped to answer. When the hammer falls in a traditional auction, there is a moment of mutual assent that creates a binding contract between the seller and the successful bidder. In a blockchain-based auction with smart contracts, that moment of assent is replaced by an automated algorithmic process whose legal characterisation requires careful analysis. Is a smart contract a contract in the legal sense? Who bears liability when the algorithm malfunctions? What are the remedies for breach of a smart contract?

The AI component of the proposed system raises a further set of legal questions. The system is expected to bring automation to tea grading using AI, which will standardise quality checks, leaving less room for subjective errors. Local Samosa But the automation of grading decisions raises questions of accountability and due process that are important from both a legal and a philosophical perspective. If an AI system assigns a grade to a parcel of tea, and that grade is lower than the seller believes it deserves, what recourse does the seller have? What is the standard of reasonableness to be applied to an AI grading decision? Who bears legal responsibility for systematic errors in the AI grading algorithm, and what constitutes a "systematic error" in a context where the AI's decision-making process may not be fully transparent even to its creators?

These questions connect to the broader jurisprudence of algorithmic decision-making, which has been developing rapidly in other regulatory and commercial contexts, including employment (automated screening of job applicants), finance (automated credit scoring), and criminal justice (risk assessment algorithms). The common thread in this jurisprudence is the tension between the efficiency and consistency advantages of algorithmic decision-making and the requirements of procedural justice, transparency, and accountability that underpin the rule of law. The introduction of AI into tea grading and auction management will bring this tension directly into the commercial law of tea.

The blockchain traceability component of the proposed system has implications not only for the conduct of the auction itself but for the broader supply chain transparency agenda that is reshaping the legal obligations of tea companies in the era of mandatory supply chain due diligence. Blockchain technology will secure transactions and stop fraud with permanent transaction records. Small-scale farmers and large estates will get equal market access through this system, which offers informed pricing decisions. Global Tea Auction If every transaction in the tea supply chain from the garden to the auction is recorded on an immutable blockchain ledger, the ability of regulators, buyers, and civil society organisations to verify the provenance and conditions of production of individual lots of tea will be dramatically enhanced.

26.6 Electronic Auctions and Existing Legal Frameworks: Gaps and Adaptations

The development of electronic tea auctions, which predates the current blockchain initiative, has already created significant legal questions about the applicability of existing auction law, contract law, and evidence law to the digital environment. The online tea auction platform established by the Tea Board of India (the Tea e-Auction system at teaauction.gov.in) was an

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early initiative to bring the transparency and accessibility advantages of electronic trading to the tea market. It operates under the regulatory framework of the Tea (Marketing) Control Order, 2003, supplemented by the specific electronic commerce provisions of the Information Technology Act, 2000.

The Information Technology Act, 2000 (ITA) provides the foundational legal framework for electronic contracts and electronic records in India. Section 10A of the ITA, inserted by amendment in 2008, gives legal validity to contracts formed through electronic means, including auction contracts. The rules on the formation, validity, and enforcement of electronic contracts have significant implications for the tea auction, particularly in relation to questions of the time and place of contract formation (which determines which court has jurisdiction over disputes), the authentication of parties to electronic transactions (which determines who is bound by a bid), and the admissibility of electronic records as evidence in legal proceedings.

The transition from physical to electronic auctions also raises questions about the institutional roles of brokers and buyers' agents. In a traditional physical auction, the physical presence of buyers or their agents at the auction room, their visible participation in the bidding process, and the direct communication between auctioneer and bidder all provide a natural framework for establishing the legal relationships that govern the transaction. In an electronic auction, these physical markers are replaced by digital identities, passwords, and automated bidding protocols, creating new risks of fraud, impersonation, and system failure that require careful legal management.

26.7 Competition Law and the Tea Auction: Cartels, Monopsony, and Market Power

The tea auction system, whatever its merits as a price discovery mechanism, is not a perfectly competitive market. The number of significant buyers who participate in any given auction is limited, and there is a recurring concern, supported by anecdotal evidence and occasional formal investigation, that buyers engage in cartel behaviour, coordinating their bidding to suppress auction prices below competitive levels. The legal framework for addressing this concern is competition law, specifically the provisions of the Competition Act, 2002 in India (administered by the Competition Commission of India, CCI) relating to anti-competitive agreements between enterprises.

Section 3 of the Competition Act, 2002 prohibits agreements between enterprises that have the effect of limiting, restricting, or preventing competition in India. Bid-rigging in auctions is specifically listed in Section 3(3)(d) as a category of agreement presumed to have an appreciable adverse effect on competition. In principle, therefore, coordinated bidding by tea buyers at the Guwahati or Calcutta auctions that suppresses prices below competitive levels is an offence under the Competition Act for which participating buyers could be subject to significant financial penalties.

In practice, the enforcement of competition law against bid-rigging in tea auctions has been very limited. The CCI has not, as of the time of writing, brought any formal case against tea buyers

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for bid-rigging, despite the existence of circumstantial evidence that has been discussed in the industry and in academic literature. The enforcement gap reflects both the evidential challenges of proving cartel behaviour in an auction context (where parallel behaviour by buyers may reflect common market information rather than explicit coordination) and the resource constraints of the CCI in investigating a sector that is important but not among the highest-profile industries in the CCI's enforcement agenda.

The monopsony dimension of buyer power in the tea market is distinct from but related to the cartel concern. Monopsony refers to a situation in which there is only one buyer (or a small number of dominant buyers) for a product, giving that buyer market power over sellers analogous to the market power of a monopolist over buyers. In many tea-growing regions, particularly for smallholder farmers who sell green leaf to local factories, the market is characterised by severe monopsony: there may be only one or two factories within a reasonable distance of the farm, and the farmer has no practical alternative to accepting the price offered by those factories.

The Competition Act, 2002 addresses monopoly power through its Chapter IV provisions on abuse of dominant position, which prohibit enterprises in a dominant position from engaging in abusive practices including the imposition of unfair or discriminatory prices. The application of these provisions to monopsony power in the tea green leaf market would require the CCI to define the relevant market narrowly enough to encompass the geographic area within which a particular factory exercises monopsony power, a definitional exercise that is both analytically challenging and politically sensitive.

CHAPTER TWENTY-SEVEN: INTERNATIONAL TRADE LAW AND TEA: WTO FRAMEWORKS, BILATERAL AGREEMENTS, AND THE POLITICS OF MARKET ACCESS

27.1 The WTO Framework and Tea: An Overview

Tea is one of the most internationally traded agricultural commodities in the world. Its legal status in international trade is governed by a complex web of WTO agreements, bilateral preferential trade agreements, regional trade frameworks, and unilateral trade preference schemes. Understanding this web of agreements is essential for anyone seeking to advise in the commercial law of tea, because the terms on which tea enters the most important consuming markets, the European Union, the United States, Japan, Russia, and the Middle East, are directly determined by the legal frameworks of international trade.

The WTO's general framework for agricultural trade is provided by the Agreement on Agriculture (AoA), concluded as part of the Uruguay Round agreements in 1994. The AoA established three pillars of agricultural trade liberalisation: market access (bound tariff reductions and the elimination of non-tariff barriers), domestic support (reduction of trade-distorting

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agricultural subsidies), and export competition (reduction and eventual elimination of export subsidies). For tea, the market access pillar is the most directly relevant, because the key constraint on the competitiveness of tea-exporting countries in foreign markets is not domestic support (tea-producing countries have modest agricultural subsidy programmes) or export subsidies (rarely used in the tea sector), but the tariff and non-tariff barriers imposed by importing countries.

The bound tariff rates for tea in the major importing markets are the foundation of market access analysis. In the European Union, tea (classified under HS Chapter 09, specifically HS codes 0902.10, 0902.20, 0902.30, and 0902.40 for different types of processed and unprocessed tea) enters at a most-favoured-nation (MFN) tariff rate that has been progressively reduced through the Uruguay and subsequent rounds of negotiation. For developing country tea exporters that benefit from the EU's Generalised System of Preferences (GSP) or the Everything But Arms (EBA) scheme (for least-developed countries), duty rates may be reduced to zero. The specific tariff rates applicable to any given tea export depend on the exporting country's GSP status, the type of tea, and the specific trade agreement in force.

27.2 The Agreement on Trade-Related Aspects of Intellectual Property Rights and Tea GIs

The TRIPS Agreement's provisions on geographical indications have been among the most hotly contested aspects of international trade law in the domain of agricultural commodities, and tea stands at the centre of that contest. As discussed in Chapter Twenty-Five, the TRIPS Agreement creates a two-tier system of GI protection, with enhanced protection under Article 23 limited to wines and spirits.

The philosophical and political debate about the extension of Article 23 protection to other agricultural products, including tea, has evolved significantly since the Doha Development Round negotiations of the early 2000s. The original coalition of developing countries, led by India, that sought extension of Article 23 protection has maintained its position consistently, arguing that the asymmetry between the protection afforded to European wines and spirits and the protection available to developing country agricultural GIs is a form of structural bias in the international intellectual property system that perpetuates colonial economic relationships.

The opposing coalition, primarily the United States, Australia, Canada, and New Zealand (often referred to as the "New World" coalition in discussions of wine GI law), has resisted extension on the grounds that it would impose excessive compliance costs on their domestic industries, which have historically used European geographical terms as generic descriptions of wine styles, and that the existing Article 22 protection is adequate for the purposes of consumer protection. They argue that if consumers are not being deceived about the origin of a product, there is no justification for a broader prohibition on the use of geographical terms.

This debate touches on fundamental questions of justice in the international legal order. John Rawls' theory of global justice, as elaborated in his work "The Law of Peoples" (1999), provides one framework for analysing the legitimacy of international trade rules. Rawls argued that

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international society should be structured to benefit the least-advantaged peoples, not merely the least-advantaged individuals within societies. On this view, trade rules that systematically disadvantage developing country producers of distinctive agricultural products, by denying them the same level of intellectual property protection enjoyed by developed country producers of wines and spirits, fail the test of global justice.

Amartya Sen's critique of Rawlsian justice, developed in "The Idea of Justice" (2009), offers a complementary perspective. Sen argued that justice should be assessed by its consequences for real human beings in their actual circumstances, rather than by reference to hypothetical principles of fairness agreed behind a veil of ignorance. From Sen's perspective, the practical question to ask about the international GI framework is not whether it is procedurally fair in the abstract but whether its actual consequences for the Darjeeling tea plucking women, the Assam smallholder, the Sri Lankan Tamil estate worker, and the Kenyan KTDA member farmer are just, measured against the standard of their capabilities to live flourishing lives.

The answer to that question, on any honest assessment, is that the current international GI framework is inadequate from a justice perspective. The failure to extend Article 23 protection to tea allows producers in importing countries and third-party countries to exploit the reputation of famous tea origins without contributing to the communities and workers whose labour and knowledge created those reputations. The economic value appropriated through this reputation exploitation is value that could instead flow to the workers and smallholders of Darjeeling, Assam, and Kandy.

27.3 The EU-India Free Trade Agreement: A Long-Negotiated Framework with Tea at Its Centre

The negotiations for a Comprehensive Trade and Investment Agreement (CTIA) between the European Union and India, which have been ongoing with interruptions since 2007, represent one of the most significant potential transformations of the legal framework governing tea trade between the world's largest single trading bloc and one of the world's largest tea-producing nations.

Tea is one of the most sensitive and most discussed agricultural products in the EU-India trade negotiation. India seeks enhanced market access for its tea in the EU, including reduced tariff rates, recognition of Indian GIs including Darjeeling, Assam, and the teas of Nilgiri and Kangra, and greater flexibility in the phytosanitary standards that govern the admission of Indian tea into the EU market. The EU, for its part, seeks reciprocal market access for EU agricultural products and services in India, and has insisted on provisions on intellectual property, investment protection, and sustainable development that are standard features of EU trade agreements.

The GI chapter of the proposed EU-India agreement is particularly significant. The EU's existing trade agreements (with Japan, Canada, the United Kingdom, Vietnam, and others) include extensive GI chapters that provide for mutual recognition of GIs on the agreed list, giving Indian GIs registered under the 1999 Act legal protection in the EU and vice versa. If the EU-India

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agreement is concluded with a comprehensive GI chapter recognising Darjeeling, Assam, Nilgiri, and other Indian tea GIs, it would represent a significant upgrade in the international legal protection of those GIs, providing a basis for enforcement actions against misuse of these names in EU member states without the need for the case-by-case international litigation strategy that the Tea Board has pursued to date.

The sustainability provisions of the EU-India agreement are equally significant for tea law. The EU's standard approach to trade agreement sustainability chapters, known as the "Trade and Sustainable Development" (TSD) chapter model, includes provisions requiring parties to uphold their obligations under the ILO's core labour standards conventions, to implement the Paris Agreement on climate change, and to promote sustainable forest management and biodiversity protection. The EU has been moving, since its 2021 trade policy review and the subsequent development of its "Global Gateway" initiative, toward more enforceable TSD provisions, including the possibility of trade sanctions for serious violations of core labour standards.

If the EU-India CTIA includes enforceable TSD provisions with real consequences for failure to uphold core labour standards, the implications for tea plantation workers in India would be profound. Workers whose employers were found to be violating the ILO's core conventions (on freedom of association, collective bargaining, forced labour, child labour, and discrimination) would have an indirect but potentially powerful route to enforcement through the trade agreement's dispute mechanism. The prospect of EU trade sanctions or the suspension of preferential tariff rates would create a powerful incentive for the Indian government to enforce labour standards on tea plantations that the existing domestic enforcement mechanism has failed to deliver.

27.4 United States Trade Policy and Tea: Section 232, Section 301, and the Tariff Regime

The United States is an important market for Indian and Sri Lankan specialty teas, though it is not among the top five markets by volume for Indian tea exports overall. The US trade framework for tea imports is governed by the general US tariff schedule (which applies MFN tariff rates that are generally low for processed tea) and by the US food safety framework (which creates non-tariff barriers in the form of pesticide residue standards, labelling requirements, and FDA import procedures).

The tariff policy environment for tea imports into the United States has been affected, since 2018, by the broader disruption of the US trade policy framework under successive administrations that have challenged the liberal trade consensus. The Trump administration's use of Section 232 of the Trade Expansion Act of 1962 (national security tariffs) and Section 301 of the Trade Act of 1974 (sanctions against unfair trade practices) to impose additional tariffs on imports from China, and the subsequent Biden administration's maintenance of many of these tariffs while pursuing its own trade policy agenda, created significant uncertainty for global agricultural commodity markets.

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For tea specifically, the most significant US tariff policy development in recent years has been the tariff implications of the general recalibration of US-China trade relations, which has caused some diversion of Chinese tea exports and some restructuring of blending and reprocessing supply chains. US consumers of specialty teas, including matcha, oolong, and premium Chinese green teas, have faced price increases as a result of tariffs on Chinese imports.

The Biden and subsequent administrations' approach to trade and sustainability has also created new incentives for importing companies to pay attention to labour conditions in their supply chains. The Uyghur Forced Labour Prevention Act (UFLPA) of 2021, which creates a rebuttable presumption that goods made in the Xinjiang region of China are produced using forced labour and are therefore subject to a ban on import under Section 307 of the Tariff Act of 1930, represents a new approach to the use of trade law as an instrument of human rights enforcement that has implications for tea importing practice more broadly.

The UFLPA model, which shifts the burden of proof to importers to demonstrate that their goods were not produced using forced labour, is conceptually related to the due diligence obligation model of European supply chain legislation, but operates through the trade law mechanism of import exclusion rather than corporate law liability. The success of the UFLPA in changing corporate sourcing behaviour in supply chains with exposure to Xinjiang has prompted advocacy for similar approaches to be applied to other products and regions where forced or coerced labour has been documented.

For tea, the relevance of this model is significant. If the patterns of dependence, debt bondage, and coercive living conditions that historical and contemporary research has documented in the tea plantations of Assam and other regions were found to meet the legal definition of forced labour under the Trafficking Victims Protection Act or the International Labour Organization's forced labour conventions, they could in principle trigger import exclusion under Section 307 of the Tariff Act. The threat of import exclusion under US law would represent a significant leverage point for labour rights enforcement that goes beyond the relatively limited impact of voluntary sustainability certification.

27.5 The Everything But Arms Initiative and Tea Trade from Least-Developed Countries

The Everything But Arms (EBA) initiative, established by the European Union in 2001 as part of its Generalised System of Preferences (GSP), provides duty-free, quota-free access to the EU market for all products (except arms and ammunition) from least-developed countries (LDCs). Bangladesh, which is a significant tea-producing country with a growing industry centred on the Sylhet region, is an LDC and therefore benefits from EBA access for its tea exports to the EU.

The legal significance of EBA access for Bangladeshi tea is substantial. It means that Bangladeshi tea can enter the EU without paying the MFN tariff that applies to tea from India or Sri Lanka, giving Bangladeshi tea a significant price advantage in the EU market. This preferential access creates a commercial incentive for European tea importers to source tea from

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Bangladesh, which in turn creates a market signal for increased investment in Bangladeshi tea production and for greater attention to quality standards.

However, EBA access comes with conditions. The EBA regulation contains provisions for the temporary withdrawal of preferences in the event of serious and systematic violations of the international conventions on human rights, labour rights, environmental standards, and good governance listed in Annex VIII of the EU's GSP Regulation. In principle, systematic violations of core labour standards in the Bangladeshi tea industry, including the low wages and poor conditions of Sylhet tea workers that have been documented by human rights organisations, could trigger an investigation under the EBA withdrawal mechanism and ultimately the suspension of Bangladesh's preferential access for tea.

In practice, the EBA withdrawal mechanism has been activated against a small number of countries (Cambodia and Myanmar are the most prominent examples) for serious violations of human rights and labour rights, and the process is slow, politically complex, and ultimately dependent on the political will of the European Commission to pursue it. The threat of EBA withdrawal is nonetheless a real one that Bangladesh's government and tea industry must take seriously, and it creates a legal and commercial incentive for improvement in labour standards in the Bangladeshi tea industry that connects to the broader agenda for development examined in Part Two of this textbook.

27.6 The African Growth and Opportunity Act and Kenyan Tea Exports to the United States

Kenya's tea exports to the United States benefit from the preferential access provided by the African Growth and Opportunity Act (AGOA), a US trade preference programme established in 2000 that provides duty-free access to the US market for a wide range of goods from eligible sub-Saharan African countries, including Kenya. Kenya's eligibility for AGOA is subject to the condition that it continues to make progress toward a market-based economy, the rule of law, elimination of barriers to US trade and investment, protection of intellectual property, efforts to combat corruption, and protection of internationally recognised worker rights.

The worker rights condition for AGOA eligibility is particularly significant in the context of Kenyan tea. Kenya's tea industry, which employs directly about 600,000 workers in addition to supporting the livelihoods of approximately 650,000 smallholder farmers through the KTDA, has a complex but generally more progressive labour rights record than its South Asian counterparts. Trade union density in the Kenyan tea sector is relatively high, and the Kenya Tea Workers Union (KETAWU) has been an effective advocate for worker rights in collective bargaining with KTDA factories and other employers.

However, there are persistent concerns about specific labour rights issues in the Kenyan tea industry, including the prevalence of sexual harassment and gender-based violence on tea estates, the conditions of seasonal and casual workers who are not covered by the same collective agreements as permanent employees, and the adequacy of wages relative to the cost of living in

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tea-growing regions. These concerns have been raised by Kenyan civil society organisations and international human rights bodies, and they carry potential legal significance for Kenya's AGOA eligibility.

CHAPTER TWENTY-EIGHT: THE LAW OF TEA EXPORT: QUALITY STANDARDS, DOCUMENTATION, AND REGULATORY COMPLIANCE

28.1 The Export Regulatory Framework in India

The export of tea from India is governed by an extensive regulatory framework that begins with the cultivation of the tea plant and ends with the loading of the tea onto a vessel or aircraft for shipment. This framework encompasses the Tea Board's regulatory functions under the Tea Act, 1953 and its subsidiary legislation, the quality and food safety requirements of the importing country, the documentation requirements of customs and export licensing, and the foreign exchange regulations that govern the settlement of export transactions.

The Tea Board of India exercises regulatory authority over tea exports through a combination of mandatory registration, compulsory testing, export licensing, and quality certification. Every manufacturer or exporter of tea is required to be registered with the Tea Board. The Tea Board's laboratory system conducts random testing of export consignments for pesticide residues, microbiological contamination, and other parameters specified in either Indian standards or the standards of the destination market. Consignments that fail the quality tests are not permitted to be exported.

The documentation requirements for tea export are extensive. A standard export consignment must be accompanied by a certificate of origin, a phytosanitary certificate (certifying freedom from plant pests and diseases), a quality certificate from the Tea Board, a health certificate (if required by the destination country), commercial invoice, packing list, bill of lading or airway bill, and a declaration of compliance with any specific requirements of the destination market (such as organic certification, fair trade certification, or documentation of compliance with the importing country's pesticide MRL standards).

The complexity of this documentation requirement is a significant compliance burden, particularly for smaller exporters who may lack the administrative resources to manage the paperwork efficiently. The digitisation of export documentation, a priority of the Indian government's broader trade facilitation agenda, has reduced some of this burden but has not eliminated it. The Tea Board's own digital systems for issuing quality certificates and registration documents have improved significantly in recent years, but the integration of these systems with customs documentation systems, port authority systems, and the documentary requirements of foreign importing countries remains incomplete.

28.2 Country-of-Origin Labelling and the Problem of Blended Teas

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The labelling of tea products is one of the most legally complex and practically contentious aspects of tea export law. The fundamental issue is that the vast majority of the tea consumed in major markets is not a single-origin product but a blend of teas from multiple origins, varieties, and grades, assembled to achieve a consistent flavour profile at a specified price point. The blending of teas is a legitimate and centuries-old practice that is central to the business model of major tea brands like Twinings, PG Tips, Tetley, and Yorkshire Tea. But it creates significant challenges for country-of-origin labelling requirements that have legal, commercial, and consumer protection dimensions.

The legal requirements for country-of-origin labelling on tea products in the major consuming markets have become increasingly detailed and specific. In the European Union, Regulation (EU) No. 1169/2011 on the provision of food information to consumers requires that the country of origin or place of provenance be indicated for foods where failure to do so might mislead consumers as to the true country of origin or place of provenance of the food. For tea blends, the implementing rules require that, where the blend contains teas from different origins, the label may state "a blend of teas from [list of countries]" or alternatively indicate that the blend contains teas from multiple origins with an appropriate disclosure.

The interaction of EU labelling requirements with the GI protection framework creates a particular problem for teas marketed under origin-specific names. A product marketed as "Darjeeling Tea" must, under EU food labelling law, contain 100 percent genuine Darjeeling tea. A product marketed as "Indian Tea" must contain tea of Indian origin, though it may be blended from multiple Indian origins. A product marketed under a brand name without any origin claim (such as "Yorkshire Tea" or "PG Tips") can contain tea from any origin and is not required to disclose the specific origin, though general rules about misleading labelling still apply.

The enforcement of these labelling requirements in the market has been uneven. Regulatory agencies in the EU and other major consuming markets have limited capacity to test tea products systematically for origin authenticity, and the analytical techniques required to verify the origin of tea in a blend (which requires sophisticated chemical fingerprinting and comparison against databases of authenticated origin samples) are expensive and technically demanding. The result is that the market for origin-specific teas operates with imperfect information, creating opportunities for the reputation exploitation discussed in Chapter Twenty-Five.

28.3 Organic Tea Certification: Legal Framework and Market Dynamics

The organic tea market has grown rapidly in the first quarter of the twenty-first century, driven by increasing consumer awareness of pesticide residues in food, the environmental benefits of organic agriculture, and the premium prices that organic certification can command. The legal framework for organic tea is complex because it requires compliance with the organic standards of the destination market, which differ in their specific requirements and their third-party certification procedures.

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The three major organic certification frameworks for tea exports are the EU Organic Regulation (currently governed by Regulation (EU) 2018/848, which came into application on 1 January 2022 and replaced the previous Regulation (EC) No 834/2007), the USDA National Organic Program (NOP) regulations under the Organic Foods Production Act of 1990, and the Japanese Agricultural Standard (JAS) for organic agricultural products under the JAS Law.

Each of these frameworks has its own specific requirements for what constitutes organic production, what synthetic inputs are prohibited, what record-keeping and traceability obligations apply, and what third-party certification procedures are required for recognition. The different requirements of these frameworks mean that a tea producer seeking to access organic markets in all three jurisdictions must comply with the most demanding requirements of each, which can create significant compliance costs.

The legal status of organic certification in India is provided by the National Programme for Organic Production (NPOP), which is administered by APEDA. The NPOP establishes national organic standards that have been recognised by the EU and Switzerland as equivalent to their own organic standards, simplifying the certification process for NPOP-certified Indian organic tea exports to those markets. The US and Japan have not granted equivalency to the NPOP, so producers seeking to export organic tea to the US must also be certified under the NOP and those seeking to export to Japan must also hold JAS certification.

The certification process for organic tea involves periodic inspection by an accredited certification body, review of records demonstrating compliance with organic standards, and in some cases soil and product testing to verify freedom from prohibited substances. The costs of certification are significant for small estate operators and particularly onerous for smallholder farmers who wish to access the organic premium. Various initiatives to develop group certification systems, in which smallholder farmers are certified collectively under the oversight of an internal control system managed by their cooperative or association, have reduced but not eliminated the certification cost barrier.

28.4 Fair Trade and Sustainability Certification: Private Standards and Their Legal Status

Alongside the organic certification framework, the tea market has seen the development of a proliferating range of voluntary sustainability certification schemes that address labour, environmental, and governance conditions in tea production. The most significant of these are Fairtrade International's Fairtrade Standards, the Rainforest Alliance certification (which merged with UTZ Certified in 2018 to form a unified scheme), and the ethical tea certification operated by bodies like the Ethical Tea Partnership.

These voluntary certification schemes occupy an interesting position in the legal landscape of tea trade. They are not law, in the sense that compliance with them is not mandated by any public legal authority. But they have significant legal-equivalent effects. Major tea brands that commit to sourcing only certified tea create contractual obligations on their suppliers to achieve and maintain certification. Insurance and financing conditions may require certification for certain

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categories of risk. And as discussed in Part Two (Chapter 22) in relation to the EU Corporate Sustainability Due Diligence Directive, public law is increasingly using voluntary standards as benchmarks for assessing compliance with mandatory due diligence obligations.

The Fairtrade Standards for tea have a specific structure that is worth examining in some detail because it illustrates both the potential and the limitations of voluntary private standards as instruments of labour justice. Fairtrade sets minimum prices for tea that are intended to cover the costs of sustainable production, including the payment of minimum wages and the maintenance of basic welfare standards. It also sets a Fairtrade Premium, an additional payment made by the buyer over and above the commodity price, which is managed by a democratically elected worker-managed body and must be invested in social, economic, or environmental development projects chosen by the workers.

The Fairtrade model is an attempt to use market mechanisms to achieve distributive justice outcomes in the tea supply chain, by ensuring that a portion of the price premium paid by consumers for Fairtrade-certified tea flows directly to the workers and communities that produced it. Its success in achieving this goal has been the subject of considerable academic research and some controversy. Critics argue that the Fairtrade premium, while genuine, is insufficient to close the gap between actual wages and living wages in the tea sector, that the benefit tends to flow disproportionately to estate owners rather than workers, and that the growth of Fairtrade certification has not led to the systemic transformation of labour relations that genuine justice requires.

Defenders of Fairtrade argue that while it is not a complete solution to the structural injustices of the tea labour market, it provides real and verifiable improvements in the lives of workers and communities that would not exist without it, that the democratic governance structures it creates empower workers in ways that have spillover benefits for their broader rights, and that the incremental progress it achieves is more realistic than waiting for the structural transformation that critics demand.

CHAPTER TWENTY-NINE: THE SMALLHOLDER IN THE COMMERCIAL CHAIN: CONTRACT LAW, MONOPSONY, AND THE GREEN LEAF TRADE

29.1 The Legal Position of the Tea Smallholder: An Anatomy of Vulnerability

The tea smallholder is the forgotten figure of tea commercial law. The vast literature on tea law and policy focuses primarily on the plantation system: the large estate, its workers, its management, and its relationship with the regulatory state. The smallholder farmer, who in Kenya accounts for approximately 60 percent of total tea production and in India plays an increasingly significant role as smallholder cultivation has expanded in states like Assam, West Bengal, Tripura, and Tamil Nadu, tends to be treated as a marginal or secondary actor in the commercial legal framework.

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This treatment is a serious error, both analytically and normatively. Analytically, the smallholder sector is increasingly central to the economics of global tea production: smallholders collectively produce more tea than estates in Kenya, are growing in importance in India, and dominate the production systems of several significant producing countries including China (where the vast majority of tea is grown by small family farms). Any legal analysis of the commercial law of tea that ignores the smallholder ignores the majority of the world's tea farmers.

Normatively, the smallholder is typically the most economically vulnerable actor in the tea supply chain. Large tea companies have legal resources, market power, and organisational capacity. Workers, while certainly vulnerable, have at least the protection of labour legislation (however imperfectly enforced) and the potential of trade union representation. The smallholder stands outside both the estate system's welfare obligations and the union's collective bargaining protection. They are, in a structural sense, entrepreneurs, but they operate in markets characterised by severe information asymmetry, monopsony buyer power, and physical isolation that deprive them of any meaningful bargaining power.

Understanding the legal position of the smallholder in the commercial chain requires analysis at several levels: the contract law governing the relationship between the smallholder and the factory; the competition law framework applicable to monopsony buyer power in the green leaf market; the regulatory framework governing minimum prices for green leaf in jurisdictions where such regulations exist; and the cooperative law governing the governance and accountability of the collective institutions through which smallholders exercise their market power.

29.2 The Green Leaf Purchase Contract: Formation, Terms, and Enforcement

The fundamental commercial relationship of the tea smallholder is the relationship with the factory that buys their green leaf. This relationship is governed in principle by contract law, but in practice its contractual character is often attenuated. In many cases, the smallholder delivers green leaf to the factory without a formal written contract, relying instead on customary practice, regulatory frameworks, and the practical necessity of having a buyer for a perishable crop that must be processed within hours of plucking.

The absence of a formal written contract, while common in the smallholder tea sector in many jurisdictions, creates significant legal vulnerability for the farmer. Without a written contract specifying the price, the quality standards, the payment timing, and the dispute resolution mechanism, the smallholder is dependent on the factory's goodwill (and its market power) in all of these dimensions. The factory that accepts green leaf for processing may set quality criteria that result in rejection of substandard leaf, impose price deductions for quality failures, delay payment beyond the period when the farmer needs the cash for inputs or living expenses, or simply reduce the price it will pay in response to market conditions, without any contractual obligation to maintain the promised price.

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The contract law of agricultural commodity purchase agreements has developed specific principles and doctrines in most jurisdictions to address these structural imbalances. In India, the Agricultural Produce Market Committee (APMC) Acts of various states regulate the marketing of agricultural produce, including in some states the terms on which it is bought and sold. The relationship between the APMC framework and the tea green leaf market varies between states. In West Bengal, which has a significant smallholder tea sector, the APMC Act applies to tea, and the APMC's regulated market yards in principle provide a framework for the fair marketing of green leaf. In practice, the effectiveness of APMC regulation in protecting smallholder tea farmers has been limited.

In Kenya, the legal framework governing the purchase of green leaf from smallholder farmers is provided by the Tea Act, 1967 (and its amendments), which gives the Tea Board of Kenya the authority to regulate the prices at which factories buy green leaf from farmers. The KTDA factory regulations require that factories pay farmers according to a formula based on the auction prices achieved for the processed tea, providing a direct link between market prices and farm gate returns. This formula-based pricing system is more protective of smallholder interests than the purely discretionary pricing that operates in many other jurisdictions, but it depends critically on the transparency and honesty of the KTDA's reporting of auction prices and the accuracy of the formula's other parameters.

29.3 Minimum Price Regulations for Green Leaf: The Regulatory Framework and Its Limitations

Several tea-producing countries or states have established regulatory frameworks setting minimum prices for green leaf purchased from smallholder farmers, recognising that the market alone, operating in conditions of severe monopsony, is unlikely to produce prices that provide farmers with an adequate return on their investment and labour. The minimum price regulation is a classic instrument of agricultural price support, analogous to the minimum wage in the labour market, and it raises analogous jurisprudential questions about the legitimacy and efficacy of state intervention in private markets.

In India, the regulation of green leaf prices is currently a state government function, and the specific regulatory framework varies between states. Assam, which has both the largest plantation sector and a significant and growing smallholder sector, has regulatory provisions for the minimum price payable to smallholder farmers for green leaf supplied to bought-leaf factories. The Assam government's Bought Leaf Factory (BLF) regulations require BLFs to maintain records of all green leaf purchases, to pay farmers within specified time periods, and to pay prices that reflect the quality of the leaf delivered.

The enforcement of these regulations has been inconsistent. The Tea Board's inspection and monitoring resources are limited relative to the large and geographically dispersed smallholder sector, and the political economy of enforcement militates against vigorous action against BLF operators, who are often significant local economic actors with political connections. The result is that regulatory minimum prices for green leaf, where they exist, are frequently violated in

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practice, with farmers accepting below-minimum prices because they have no practical alternative.

This situation raises important questions of constitutional law as well as regulatory law. The right to livelihood, which the Supreme Court of India has derived from the right to life under Article 21 of the Constitution since the landmark decision in Olga Tellis v. Bombay Municipal Corporation (1985), encompasses the right to means of livelihood that are adequate to sustain a decent human life. If the prices paid to smallholder tea farmers are consistently below the level that makes tea cultivation economically viable, denying farmers a livelihood from their investment of land and labour, there is an argument that the state's failure to enforce minimum price regulations may constitute a violation of the constitutional right to livelihood.

The jurisprudence of economic rights under the Indian Constitution has expanded significantly in the post-Olga Tellis era. The right to food, the right to education, and other socio-economic rights have been progressively recognised by the Supreme Court as implied by the right to life under Article 21, creating enforceable positive obligations on the state. The extension of this jurisprudential development to the right to a livelihood-sustaining price for agricultural produce, while not without conceptual difficulties, is a plausible development that legal scholars and advocates in the tea law field should explore.

29.4 The KTDA Model: Cooperative Law and Its Application to Smallholder Tea Governance

The Kenya Tea Development Agency model represents the most sophisticated and successful experiment in legal institutional design for the protection of smallholder interests in the tea commercial chain, and it deserves detailed examination in any comprehensive treatment of tea commercial law.

The KTDA was established originally in 1964 as a government agency under the colonial-era agriculture ministry, charged with the dual purpose of extending tea cultivation to smallholder farmers and managing the processing and marketing of their tea. Its original legal basis was the Agriculture Act, and its governance was entirely governmental. Over the decades following independence, the KTDA evolved through several phases of restructuring, privatisation, and governance reform, arriving at its current structure as a private company (KTDA Holdings Limited) fully owned by the smallholder farmers who supply it, through their tea factory cooperative societies.

The legal architecture of the KTDA model is built around a hierarchy of organisations. At the base are the individual smallholder farmers, each of whom is a registered member of the local tea factory cooperative society. Each factory is incorporated as a limited company, with the member farmers holding shares in proportion to their green leaf deliveries over the preceding years. The factory companies are in turn shareholders in the KTDA Holdings Limited, the apex company that provides management services (including procurement, processing, auction marketing, and corporate governance support) to all the factories.

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The cooperative law principles that govern this structure are primarily those of Kenyan company law (since the factories are incorporated as limited companies rather than as registered cooperatives) supplemented by the requirements of the Tea Act, 1967 and the KTDA Regulations. The rights of member farmers against the factory company and the KTDA are primarily contractual rights (arising from the factory membership agreement) and shareholder rights (arising from company law). Farmers who believe that the factory management is acting contrary to their interests have legal remedies both under company law (including the right to bring a derivative action in respect of wrongs done to the company) and under the Tea Act (which provides for the Tea Board to investigate complaints against factory operators).

The governance of the KTDA model has been the subject of significant controversy. Concerns have been raised about the transparency of the second payment system, by which farmers receive their share of the annual net proceeds from the auction of processed tea. The second payment is supposed to reflect the difference between the total auction proceeds received for each factory's tea and the cost of production, management fees, and other deductions. Critics have argued that the KTDA's management fees are excessive, that the cost allocations between factories are not transparent, and that the audit processes do not provide adequate assurance of the accuracy of the second payment calculations.

These governance concerns were the subject of a significant review by the Kenya National Audit Office, and they have led to reforms in the KTDA's governance structures, including enhanced board representation for farmer representatives and improved financial reporting. The ongoing challenge is to design a governance system that is simultaneously responsive to the interests of 650,000 geographically dispersed smallholder farmers with diverse interests and information levels, and capable of managing a sophisticated multi-factory processing and marketing operation efficiently enough to remain competitive in the global tea market.

29.5 The Bangladesh Smallholder Tea Sector: Emerging Challenges

Bangladesh's smallholder tea sector, while smaller than those of Kenya and India, represents one of the most legally significant emerging frontiers in tea commercial law. The expansion of tea cultivation from the traditional estate-dominated Sylhet region to smallholder farming in other parts of the country has outpaced the development of the regulatory framework, creating a situation in which new smallholder producers operate in a legal vacuum with respect to green leaf pricing, factory registration, quality standards, and access to export markets.

The Bangladesh Tea Board, established under the Bangladesh Tea Industry Control Act, 1950 (an inherited colonial statute with significant amendments), has responsibility for regulating the tea industry but has been slow to develop a comprehensive regulatory framework for the smallholder sector. The result is that smallholder tea farmers in Bangladesh operate largely outside the formal regulatory system, selling their green leaf to unregistered buyers at prices that reflect the full monopsony power of those buyers, without access to the price discovery mechanisms of the formal auction system or the minimum price protections of the estate sector.

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The development of a comprehensive legal framework for the Bangladesh smallholder tea sector, modelled on elements of the KTDA cooperative system and the Indian regulatory framework for BLFs, is a priority reform agenda that legal practitioners advising the Bangladesh government and the development organisations working in the sector have been advocating for several years. The Fair Pay Foundation's Model Tea State initiative in Bangladesh, referenced in Part Two of this textbook, includes elements of legal and institutional reform as well as the direct improvement of worker conditions, and it represents an interesting experiment in using private sector commitment and civil society pressure to drive regulatory reform.

29.6 Contract Farming in Tea: Legal Issues and Potential

Contract farming, in which a buyer provides inputs, technical assistance, and a guaranteed purchase commitment to farmers in exchange for the farmers' commitment to deliver a specified quality and quantity of produce, is a model that has been proposed as a solution to some of the legal and commercial problems of the smallholder tea sector. In theory, contract farming arrangements can give smallholder farmers access to the capital and technical knowledge they need to improve quality, while giving the buying company the supply chain security and quality consistency it needs to serve demanding customers.

In practice, however, contract farming arrangements in agricultural sectors with significant power asymmetries have a problematic track record. The standard objection to contract farming is that the contractual framework, which superficially appears to be a mutual exchange of commitments, in practice operates to transfer risk from the company to the farmer while concentrating control in the company. The farmer commits to deliver produce meeting specified quality standards (which the company determines), produced using specified inputs purchased through the company (often at above-market prices), on land that may be mortgaged or otherwise encumbered to finance the company's advance of inputs, at a price that is often determined by the company after delivery (rather than being specified in the contract in advance).

The legal framework governing contract farming in India was significantly enhanced by the Model Contract Farming Act, 2018, developed by the Ministry of Agriculture and subsequently adopted with modifications by several state governments. The Model Act provides a framework for registration of contract farming agreements, protection of the farmer's rights to their land and produce, dispute resolution mechanisms, and quality specification standards. Its application to the tea sector would require adaptation to the specific conditions of the green leaf trade, including the provisions relating to price determination and quality grading.

CHAPTER THIRTY: CORPORATE GOVERNANCE, SUSTAINABILITY LAW, AND THE COMMERCIAL OBLIGATIONS OF TEA COMPANIES

30.1 Tea Company Law: From Plantation Companies to Multinational Corporations

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The legal structure of the entities that own, operate, and trade in tea has changed fundamentally over the course of the century and a half since the modern plantation system was established. The original tea companies of the colonial era were typically joint-stock companies incorporated under the laws of colonial India, with shareholders primarily in Britain who sought a return on their investment in plantation agriculture. These companies were the vehicles of colonial capital, and their legal structure as shareholder-owned corporations with fiduciary duties running primarily to their shareholders was the institutional expression of a colonial economy organised around the extraction of value from the plantation for the benefit of metropolitan capital.

The post-colonial evolution of tea company law has seen a significant diversification of corporate structures. Many of the large Indian tea estates and trading companies remain privately held family businesses or family-controlled listed companies, operating within the framework of the Companies Act, 2013 in India and the corresponding company law frameworks of Bangladesh, Sri Lanka, and Kenya. The listed companies are subject to the securities law requirements of their respective stock exchanges, including disclosure obligations, governance standards, and regulations on related party transactions that have significant implications for the management of plantation assets.

At the other end of the spectrum, the major multinational tea companies, including Unilever (whose tea business was partially spun off as Ekaterra, subsequently acquired by CVC Capital Partners and rebranded as Lipton Teas and Infusions), Tata Consumer Products (the owner of Tetley, Eight O'Clock Coffee, and other major brands, and a major producer through Tata Tea's Indian estates), and James Finlay (now part of the Swire Group), are subject to the corporate governance and disclosure requirements of multiple jurisdictions in which they are incorporated, listed, or do significant business.

The intersection of company law and sustainability obligations is one of the most dynamic areas of legal development in the corporate law of tea companies. The traditional view of company law, articulated by Milton Friedman in his 1970 essay "The Social Responsibility of Business Is to Increase Its Profits," is that the corporation's primary and essentially exclusive legal duty is to its shareholders. The fiduciary duties of directors run to the shareholders, and the exercise of corporate resources for social or environmental purposes that do not serve shareholder interests constitutes a breach of those fiduciary duties.

This shareholder primacy view of corporate law has been extensively challenged and significantly eroded in both academic discourse and legal practice over the past two decades. The development of the broader stakeholder model of corporate governance, the emergence of benefit corporation legislation in several US states and other jurisdictions, the growth of ESG (environmental, social, and governance) investing and its associated reporting requirements, and above all the mandatory supply chain due diligence legislation of the European Union have all contributed to a fundamental reconceptualisation of the legal obligations of corporations with respect to the social and environmental consequences of their activities.

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30.2 The Business and Human Rights Framework: From Ruggie Principles to Binding Obligations

The conceptual foundation of the modern corporate human rights obligation is the UN Guiding Principles on Business and Human Rights (UNGPs), developed by the UN Special Representative for Business and Human Rights, John Ruggie, and endorsed by the UN Human Rights Council in 2011. The UNGPs articulate a tripartite framework built around three pillars: the state's duty to protect human rights, the corporation's responsibility to respect human rights, and the need for access to remedy for victims of corporate human rights violations.

The corporate responsibility to respect, as articulated in the UNGPs, is a responsibility to exercise due diligence to identify, prevent, mitigate, and account for adverse human rights impacts throughout the corporation's value chain. The due diligence obligation is not merely about a company's own operations but about the impacts of its suppliers, sub-suppliers, and other business partners throughout the supply chain. For a major tea brand whose supply chain extends through importers, auction houses, estates, bought-leaf factories, and smallholder farmers across multiple countries, this supply chain due diligence obligation has potentially very wide reach.

The UNGPs are "soft law" in the technical sense: they are not legally binding, and compliance with them cannot be enforced through international legal proceedings. Their legal significance is that they provide the normative framework that has informed the subsequent development of mandatory due diligence legislation in multiple jurisdictions.

The EU Corporate Sustainability Due Diligence Directive (CS3D), adopted in 2024, is the most significant manifestation of this translation of soft law norms into binding legal obligations. As discussed in Part Two (Chapter 22), the CS3D requires large companies to conduct human rights and environmental due diligence throughout their value chains, to take action to address identified adverse impacts, and to report on their due diligence processes. The CS3D will apply to EU-based companies with significant turnover and employee numbers, and to non-EU companies doing significant business in the EU. Major tea importing companies and retailers in the EU fall within the scope of the CS3D, and their supply chains extending to Indian, Sri Lankan, Kenyan, and Bangladeshi tea estates and smallholder farms are within the scope of the required due diligence.

30.3 National Due Diligence Legislation and Its Application to Tea

The CS3D is the most comprehensive and advanced example of national or regional mandatory supply chain due diligence legislation, but it is not the only one. Several jurisdictions have enacted or are considering mandatory due diligence legislation that has implications for the tea supply chain.

The French Law on the Duty of Vigilance (Loi de Vigilance), enacted in 2017, was the pioneer of mandatory corporate due diligence in the EU. It requires French companies above a specified size to publish and implement a vigilance plan that identifies the risks of serious violations of

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human rights, fundamental freedoms, health, safety, and the environment arising from their activities and those of their subsidiaries and subcontractors. Violations of the duty of vigilance can give rise to civil liability in French courts for damages suffered by victims of the violations.

The German Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz, or LkSG), which entered into force in January 2023, imposes similar obligations on German companies above specified thresholds, requiring risk analysis, preventive measures, remediation obligations, and reporting. The LkSG creates administrative enforcement mechanisms (including fines and exclusion from public procurement) and does not create a direct civil liability right for victims, a limitation that human rights organisations have criticised as weakening the effectiveness of the law.

The UK Modern Slavery Act 2015, while less comprehensive than the French or German laws, requires large companies to publish annual transparency statements disclosing the steps they have taken (or the fact that they have taken no steps) to prevent modern slavery in their supply chains. The Act has been criticised for not going far enough: it imposes a transparency obligation without a substantive due diligence obligation, and enforcement of the transparency requirement has been weak. Nevertheless, the Modern Slavery Act has had a real impact on corporate practice in the tea sector, pushing major tea brands to conduct supply chain assessments and engage with the issues of forced and child labour documented by researchers and civil society organisations.

30.4 ESG Reporting and Its Legal Implications for Tea Companies

The legal obligation to report on environmental, social, and governance (ESG) matters has become an increasingly important dimension of corporate law for tea companies. The EU's Corporate Sustainability Reporting Directive (CSRD), which entered into force in January 2023 and is being progressively applied to large companies and listed companies in the EU, requires comprehensive sustainability reporting in accordance with the European Sustainability Reporting Standards (ESRS) developed by the European Financial Reporting Advisory Group (EFRAG).

The ESRS include both cross-cutting standards applicable to all companies and sector-specific standards for specific industries, including agri-food. The sector-specific standards for agri-food companies address the specific sustainability risks and impacts of food production chains, including land use, water management, biodiversity impacts, worker conditions in the supply chain, and food security. For tea companies whose supply chains extend to plantations in India, Kenya, and Sri Lanka, the ESRS reporting requirements will demand unprecedented levels of supply chain transparency and disclosure.

The legal implications of CSRD reporting for tea companies go beyond the formal compliance obligation. The data that companies disclose under CSRD forms the evidentiary basis for enforcement of the CS3D due diligence obligations, for investor decisions about capital allocation, for civil society campaigns and litigation targeting companies with poor sustainability performance, and potentially for regulatory action by national authorities in member states. A tea

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company that discloses in its CSRD report that it has identified forced labour risks in its supply chain but has taken no remedial action faces not only reputational consequences but potential legal liability under the CS3D for failure to address identified adverse impacts.

The interaction between CSRD disclosure obligations and legal privilege, confidentiality, and litigation risk management is an emerging area of corporate legal practice. Legal advisers to tea companies operating in the EU context are developing new approaches to the structuring of supply chain assessments, due diligence processes, and internal reporting systems that manage the tension between the transparency required by CSRD and the legal risks created by that transparency.

30.5 Climate Change Law and the Tea Company: Legal Obligations and Litigation Risk

Climate change is not merely a physical threat to tea production, though as noted in Part Two (Chapter 21) its impacts on tea yields, quality, and growing conditions are already significant and are projected to become increasingly severe. It is also a legal threat to tea companies, in the form of the expanding and rapidly evolving landscape of climate change litigation risk.

Climate change litigation against corporations has grown dramatically in frequency, geographic scope, and legal ambition since the early 2020s. The cases brought against Shell in the Netherlands (Milieudefensie v. Shell, 2021, in which the District Court of the Hague ordered Shell to reduce its absolute global carbon dioxide emissions by 45 percent by 2030 relative to 2019 levels), against Total Energies in France, and against numerous other companies and governments across multiple jurisdictions have established a growing body of precedent for corporate climate accountability that extends beyond the extractive industries that have been the primary targets of early litigation.

The application of climate change litigation theories to agricultural and food companies, including tea companies, is a logical extension of the existing jurisprudence. If a major oil company can be found legally responsible for taking action to reduce its contribution to global warming, the same logic applies in principle to a major tea company whose plantation operations contribute to deforestation (tea expansion into forested areas), carbon emissions (from processing operations, transport, and land use change), and whose products are marketed in ways that may contribute to a business-as-usual trajectory of emission growth.

More specifically relevant to tea companies is the emerging litigation around their failure to protect their own assets and business models from climate change risks that they have been warned about. If a tea company's management fails to disclose material climate risks to investors, or fails to develop adequate adaptation plans for the climate vulnerability of its plantation assets, it may face claims from investors for breach of the directors' duty to act in the company's best interests. The law of directors' duties, which requires directors to exercise reasonable care, skill, and diligence in the management of the company's affairs, is being interpreted by courts in multiple jurisdictions to encompass the requirement to take material climate risks seriously.

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The Tea Board of India's Climate Change Programme, along with the sector-specific climate adaptation initiatives funded by the Ethical Tea Partnership and various development finance institutions, represents the tea industry's response to these risks. But the adequacy of these responses, measured against the scale of the climate threat and the legal standards of care that the duty of directors and mandatory reporting obligations are beginning to define, is a question that will increasingly be tested by investors, civil society organisations, and ultimately the courts.

30.6 Merger and Acquisition Law in the Tea Sector: Competition Issues and Consolidation

The tea industry has undergone significant consolidation through mergers and acquisitions in the first quarter of the twenty-first century. The Unilever tea business restructuring, the acquisition of Tetley by Tata Tea (subsequently renamed Tata Consumer Products), the merger of Rainforest Alliance and UTZ Certified, and numerous smaller transactions at the plantation and trading level have all involved applications of competition law and regulatory approval processes that merit attention in the legal framework of tea commercial law.

The merger control assessment of tea industry transactions requires careful definition of the relevant product and geographic markets. For the purposes of competition analysis, the tea market might be defined narrowly (e.g., the market for premium whole-leaf black tea from specific origins) or broadly (the market for all hot beverages), and the geographic market might be defined as a single country, a region, or global. The appropriate market definition has significant implications for whether any given transaction creates or strengthens a position of market dominance.

The Tata Tea acquisition of Tetley in 2000, for example, was a landmark transaction in the globalisation of the tea industry, creating for the first time an entity that combined major plantation production capacity in India with a leading retail brand in the United Kingdom and other markets. The competition assessment of that transaction required regulators in the UK, the EU, and India to analyse whether the vertical integration of producer and brand owner created market power concerns in any relevant market. The transaction was approved, but it illustrates the complexity of the competitive analysis required for significant tea industry mergers.

The ongoing concentration of the global tea brand market in the hands of a small number of major players, combined with the increasing concentration of retail grocery trade in many consuming markets, creates a competitive structure in which the bargaining power of brand owners and retailers relative to producing countries and smallholder farmers is very large. The application of competition law to address the market power of buyers in the tea supply chain, rather than focusing exclusively on horizontal competition between sellers, is an area where the development of tea law jurisprudence has significant work to do.

CHAPTER THIRTY-ONE: THE FUTURE OF TEA COMMERCIAL LAW: INTEGRATION, TRANSFORMATION, AND JUSTICE

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31.1 The Digital Integration of Tea Law: A Comprehensive Vision

The individual digital initiatives discussed in the preceding chapters of this part, the AI-driven blockchain auction system proposed for Assam, the electronic documentation systems for tea export, the satellite-based quality monitoring technologies, the blockchain traceability platforms being piloted across the supply chain, represent fragments of a more comprehensive vision of the digitalisation of the tea commercial legal framework. When these fragments are integrated into a coherent digital architecture, the implications for tea law are transformative.

Imagine a supply chain in which every kilogram of green leaf plucked by a smallholder farmer in Assam is assigned a digital identity at the point of collection, recorded on a blockchain ledger that follows it through processing, grading, auction, export, import, blending, and retail sale. At each stage, the relevant data, the quality characteristics of the leaf, the labour conditions under which it was produced, the environmental footprint of the processing, the price paid to the farmer and the workers, the certification status of the estate, the pesticide residue test results, and the carbon emissions of the transport are added to the blockchain record. By the time the tea reaches the consumer, its entire history is traceable, verifiable, and transparent.

In this vision, the GI protection of Darjeeling tea becomes enforceable in real time: any blender who seeks to pass off non-Darjeeling tea as Darjeeling is immediately detectable through the blockchain record. The labour rights due diligence obligations of EU importers under the CS3D become auditable through the supply chain data. The minimum price obligations of green leaf purchasers become verifiable against the blockchain record of transactions. The organic certification of an estate's production becomes traceable through the entire supply chain, eliminating the opportunities for fraudulent certification that currently exist.

The legal implications of this integrated digital supply chain are profound. Many of the enforcement challenges that currently make tea law difficult to apply in practice, the difficulty of proving the origin of blended teas, the opacity of the green leaf pricing chain, the impossibility of tracing the specific lot of tea sold at auction back to the estate and the workers who produced it, are in principle eliminated by a comprehensive blockchain traceability system.

But the digital transformation of tea law also raises new legal challenges that must be addressed proactively. The most fundamental of these is data governance: who owns the data generated by the digital supply chain, who has access to it, and how is it used? The smallholder farmer whose green leaf deliveries are recorded on the blockchain generates valuable data about their production patterns, their quality profile, their vulnerability to weather events, and their financial position. That data has commercial value to the factory that processes their leaf, to the insurance companies that might offer crop insurance, to the certification bodies that audit compliance with sustainability standards, and to the development finance institutions that provide credit and investment to the sector. Does the farmer have any legal right to that data? Can they consent to or refuse its use for purposes other than the immediate commercial transaction?

31.2 Data Sovereignty and Agricultural Data Law in the Tea Sector

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Agricultural data law is one of the newest and most rapidly developing areas of agri-food law, and its implications for the tea sector are significant. The concept of agricultural data sovereignty, the right of farmers and farming communities to control the data generated by their agricultural activities, is gaining recognition in academic discourse and in some national and regional regulatory frameworks, but its specific application to the tea supply chain remains largely unexplored.

The EU's Data Act, adopted in 2023 and applying from September 2025, provides the most advanced legal framework for agricultural data rights in any major jurisdiction. The Data Act gives users of connected products and related services (including connected agricultural equipment, sensors, and digital platforms) the right to access the data they have generated, to share it with third parties of their choice, and to have it transferred to alternative service providers. These rights apply to the data generated by a smallholder farmer using a digital app to record their green leaf deliveries, by the connected sensors on a factory's tea processing equipment, or by the GPS-enabled weather monitoring system on an estate.

The application of the Data Act's principles to the blockchain-based tea auction system proposed for Assam raises interesting legal questions. The smallholder farmers whose green leaf feeds into the auction system generate transaction data that is recorded on the blockchain. Under the Data Act framework, those farmers should in principle have the right to access that data and to share it with parties of their choice, including competing buyers, insurance companies, or advocacy organisations. But the design of the blockchain system, and the governance arrangements under which it is operated, will determine whether those rights are practically exercisable.

31.3 Climate Change Adaptation Law: The Legal Obligations of the Tea Sector

The physical reality of climate change is already transforming the geography of tea production in ways that require legal and regulatory adaptation. India's tea production dropped 7.8% in 2024 because of extreme weather events. The optimal growing conditions will likely decline by 26.2% in Kenya, 14% in Sri Lanka, and 4.7% in China by mid-century. Global Tea Auction These projections represent not merely an agricultural challenge but a legal and regulatory crisis in slow motion.

The legal obligations of the tea sector in relation to climate change adaptation operate at multiple levels. At the level of individual estate management, the duty of directors to act in the company's best interests (interpreted in accordance with the evolving understanding of material climate risk) creates an obligation to develop and implement credible climate adaptation plans. The CSRD reporting requirements create an obligation to disclose the company's assessment of its climate-related risks and its adaptation strategies. The CS3D due diligence requirements extend the scope of the adaptation obligation to include the climate vulnerability of suppliers and business partners throughout the supply chain.

At the level of the regulatory state, the climate adaptation obligations of tea-producing countries are informed by their Nationally Determined Contributions (NDCs) under the Paris Agreement,

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which typically include agriculture as a sector requiring both mitigation and adaptation measures. The specific legal instruments through which these adaptation obligations are translated into enforceable standards for the tea sector vary between countries, and in many producing countries the specific adaptation framework for the tea sector remains underdeveloped.

The most legally novel aspect of the climate adaptation challenge for tea is the question of managed retreat: the possibility that some tea-growing areas, particularly at lower altitudes, may become no longer viable for tea production under projected climate scenarios, necessitating either the transition to different crops or the displacement of farming communities. Managed retreat raises profound questions of land law, agricultural law, the rights of farming communities to their traditional livelihoods, the obligations of the state to provide alternative livelihood opportunities and compensation, and the liability of those who have contributed to climate change for the losses suffered by those who are most vulnerable to its effects.

31.4 The Future of Fair Trade and Alternative Trade Systems

The future of fair trade and alternative trade systems in the tea sector is a subject of active debate among economists, legal scholars, development practitioners, and industry participants. The basic critique of fair trade is that while it delivers real benefits to participating farmers and workers, it is structurally limited by its dependence on the voluntary choice of conscious consumers in wealthy countries to pay a premium for certified products. The market for Fairtrade-certified products is real but finite, and its growth has not kept pace with the growth of the tea industry as a whole, meaning that the proportion of global tea production that is covered by fair trade certification remains small.

More fundamental is the critique that fair trade does not address the structural conditions that produce unfairness in the tea market in the first place. Fair trade certification adjusts the distribution of value within an existing supply chain structure, providing floor prices and premiums to participating producers. But it does not change the basic architecture of that supply chain: the power of major brands to determine the terms on which they source tea, the monopsony power of factories over smallholder farmers, the concentration of market power in the global retail sector, or the absence of effective political voice for tea workers and smallholders in the regulatory processes that shape their economic lives.

The alternative trade system perspective, associated with the more radical wing of the fair trade movement, argues for a more fundamental restructuring of the tea supply chain, one that creates genuine economic power for producers rather than simply adjusting the terms of their subordination to corporate buyers. This perspective points to examples like the KTDA cooperative model, the worker-owned processing enterprises in some parts of the Sri Lankan tea sector, and the direct trade initiatives that link specialty tea estates directly with artisan tea importers in consuming countries, as models of a more genuinely transformative approach.

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From the perspective of legal design, the question is what legal instruments and institutional frameworks can support these more transformative models. Cooperative law, as discussed in relation to the KTDA, is one such instrument. Community land trusts, an institutional form developed in the United States but increasingly adapted for use in agricultural and rural development contexts, represent another potential instrument for giving farming communities secure, collectively managed land rights that provide the foundation for economic autonomy. The emerging legal framework for community wealth building, drawing on the Preston Model in the United Kingdom and its international analogues, offers a broader institutional template for restructuring local economies around collective ownership and democratic governance principles.

31.5 Jurisprudential Synthesis: Law, Justice, and the Leaf

The commercial law of tea, examined through the seven themes of this part, presents a jurisprudential landscape of extraordinary complexity and richness. It encompasses some of the most technically demanding areas of modern law: the chemistry of pesticide regulation, the cryptography of blockchain, the econometrics of auction theory, the philosophy of territorial sovereignty in international trade law. And it is animated, at every point, by the foundational jurisprudential questions of this textbook: what is the law, why is it as it is, and what should it become?

The picture that emerges from this examination is one of a commercial legal framework that is, on balance, inadequate from the perspective of justice. The quality regulation system, while formally committed to consumer protection, is heavily influenced by the power of industry actors and importing country interests, and does not systematically protect the interests of producing communities. The intellectual property framework gives legal recognition to the community identity embedded in geographical indications but fails to ensure that the economic value of that recognition flows to the communities and workers whose labour creates it. The auction system provides a degree of price discovery and market transparency that benefits the overall sector, but is susceptible to manipulation by buyer cartels and fails to integrate smallholder farmers as full participants. The international trade law framework embeds structural asymmetries that favour the interests of major consuming nations and their domestic agricultural industries over those of developing country tea producers. The corporate governance and sustainability law framework is evolving rapidly in the right direction, driven by the CS3D and related instruments, but is still far from imposing obligations on tea companies that are proportionate to the scale of the adverse human rights and environmental impacts of the global tea supply chain.

These inadequacies are not accidental. They are the product of specific historical processes, power relationships, and ideological choices that shaped the legal framework as it exists today. Understanding those processes, relationships, and choices is the first step toward changing them. Legal education in tea law must therefore be not merely technical education in the mechanics of existing rules, but critical education in the political economy of how those rules came to be and whose interests they serve.

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The jurisprudential tradition offers multiple frameworks for articulating what a more just commercial law of tea would look like. Rawlsian justice, as applied to international trade, would require trade rules structured to benefit the least advantaged participants in the global tea economy, including smallholder farmers and plantation workers. Sen's capabilities approach would require that commercial law be evaluated by its consequences for the real freedoms of the most vulnerable participants: does the GI framework expand or constrain the capability of Darjeeling plucking women to lead flourishing lives? Does the auction system expand or constrain the capability of Assam smallholders to participate effectively in the market and receive a fair return on their investment? Dworkin's principle of equal concern would require that the law treat all participants in the tea economy with equal concern and respect, not prioritising the interests of shareholders and corporate buyers over those of workers and smallholders.

None of these theories provides a simple or complete blueprint for the reform of tea commercial law. But together they provide a normative vocabulary and a set of analytical tools that can inform a sustained and rigorous critique of existing law and a constructive imagination of the law as it should be.

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CONCLUSION TO PART THREE: THE COMMERCIAL LAW OF TEA IN TRANSITION

The commercial law of tea is in a period of rapid and fundamental transition, driven by three converging forces: the digital revolution in market infrastructure, the mainstreaming of mandatory sustainability obligations in corporate and trade law, and the growing assertiveness of producing communities, workers, and their advocates in demanding a redistribution of the value generated by the global tea economy.

The digital revolution, exemplified most concretely by Assam's announced AI-driven blockchain auction system and the broader blockchain traceability initiatives being developed across the supply chain, creates the technical infrastructure for a qualitatively new level of market transparency, GI enforcement, and supply chain accountability. India, recognised as the world's second-largest tea producer after China, is preparing to implement a blockchain and artificial intelligence enabled auction system aimed at increasing transparency and enhancing efficiency within its tea industry. This upcoming digital system is expected to reshape the traditional auction model by facilitating secure transactions and promoting equitable pricing structures. CoinTrust The legal framework needed to govern this digital infrastructure is still largely undeveloped, and the scholars, practitioners, and regulators of tea law face the challenge of developing it before the technology is deployed, rather than scrambling to catch up with it afterward.

The mandatory sustainability obligation revolution, driven by the EU's CS3D, the German LkSG, the French duty of vigilance law, and the broader business and human rights framework, is transforming the legal obligations of tea companies from voluntary aspiration to enforceable duty. The implications of this transformation for the legal practice of tea law are profound: lawyers advising tea companies must now develop expertise not only in the commercial law of tea trading and the intellectual property law of origin protection, but in the human rights due diligence framework, the labour rights of plantation workers, the environmental standards of organic and sustainability certification, and the rapidly evolving reporting requirements of CSRD.

The growing assertiveness of producing communities, workers, and their advocates is creating a political and legal environment in which the structural injustices of the tea commercial system are increasingly visible and increasingly contested. The campaigns for living wages, the demands for greater smallholder bargaining power, the litigation strategies around corporate human rights liability, the advocacy for extension of TRIPS Article 23 protection to tea GIs, and the political

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movements for more democratic governance of tea institutions are all manifestations of this assertiveness. They are creating the political conditions for legal reform that the jurisprudential analysis of this part has shown to be necessary.

Part Four of this textbook will turn to the law of technology in the tea sector: the specific legal frameworks governing precision agriculture, digital labour management, agricultural biotechnology, artificial intelligence in quality grading, and the intellectual property aspects of new cultivar development. In that domain, as in the commercial law domain examined in this part, the intersection of technical innovation and legal justice will be the central theme.

End of Part Three

Part Four: Technology Law and the Tea Sector: Precision Agriculture, Biotechnology, Digital Labour Management, Artificial Intelligence, and Intellectual Property will follow.

PART FOUR: TECHNOLOGY LAW AND THE TEA SECTOR: PRECISION AGRICULTURE, BIOTECHNOLOGY, DIGITAL LABOUR MANAGEMENT, ARTIFICIAL INTELLIGENCE, AND THE INTELLECTUAL PROPERTY OF INNOVATION

FOREWORD TO PART FOUR

There is a paradox at the heart of technology law in the tea sector, one that the careful student must hold steadily in mind throughout the analysis that follows. Tea is among the most ancient of cultivated crops. Its cultivation practices, its social structures, its aesthetics, and to a remarkable degree its legal framework all bear the marks of centuries of accretion, and in the most important producing countries they bear the specific marks of a colonial legal architecture that was designed for an economy organised around the disciplined application of physical labour to the land. Yet this ancient industry now stands at the most rapid moment of technological transformation in its history. The same hillsides where labourers have plucked tea by hand for generations are now subject to drone surveillance, satellite monitoring, AI-powered disease detection, and the beginnings of robotic harvesting. The same factories where tea was processed by heat and hand for a century are now being redesigned around automated grading systems using machine vision and spectroscopic analysis. The same auction rooms where buyers once bidded in person under the authority of a falling hammer are being supplanted by blockchain-backed digital markets managed in part by algorithms.

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These are not merely technological changes. They are legal events of the first order. Every technology that transforms how tea is grown, processed, graded, traded, or consumed raises legal questions about intellectual property, liability, regulatory compliance, worker rights, data governance, and the distribution of the economic benefits of innovation. The legal system, which necessarily lags behind the pace of technological change, is struggling to keep up. The result is a landscape of legal uncertainty, institutional inadequacy, and distributional conflict that this part of the textbook aims to map with full analytical depth.

Part Four is organised around five major themes. The first is precision agriculture law: the legal framework governing the use of drones, satellites, sensors, and AI-powered advisory systems in tea cultivation, including the regulatory frameworks for drone operations, the data governance questions raised by precision agriculture technologies, and the liability issues that arise when algorithmic advice leads to crop failure or regulatory violation. The second is biotechnology law in the tea sector: the intellectual property framework for new plant varieties developed through conventional breeding, tissue culture, and the emerging techniques of gene editing including CRISPR-Cas9, and the regulatory framework governing the approval and commercialisation of genetically modified or gene-edited tea plants. The third is digital labour management and its legal consequences: the deployment of digital technologies to monitor, manage, and incentivise the work of tea labourers, and the human rights, privacy, and labour law questions this deployment raises. The fourth is artificial intelligence in tea quality assessment and trading: the legal framework for AI-powered tea grading, sensory assessment, and price prediction, and the accountability and liability questions that arise in the age of algorithmic commercial decision-making. The fifth is the intellectual property of tea innovation: the patent law framework governing innovations in tea processing, the protection of trade secrets in tea blending and quality management, and the emerging questions about the ownership of AI-generated innovation.

Throughout all five themes, the jurisprudential questions that animate this textbook as a whole will be pursued with full intellectual rigour. Who benefits from technological innovation in the tea sector, and who bears its costs? What theory of intellectual property justifies patent protection for innovations derived from the biological and cultural heritage of tea-growing communities? What human rights obligations govern the deployment of surveillance technologies in plantation settings? What does the law of algorithmic accountability require of those who deploy AI systems in commercial and regulatory contexts? These are not peripheral questions. They are central to the justice of the technological transformation of the tea sector.

CHAPTER THIRTY-TWO: PRECISION AGRICULTURE LAW IN THE TEA SECTOR: DRONES, SATELLITES, SENSORS, AND THE REGULATORY FRAMEWORK

32.1 The Rise of Precision Agriculture in Tea: A Technical and Legal Overview

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The term precision agriculture refers to a family of data-driven farming practices that use real-time information about the condition of the crop, the soil, the atmosphere, and the biotic environment to make highly targeted decisions about the application of inputs, the timing of operations, and the allocation of resources. Where traditional tea cultivation depends on the accumulated experience of the estate manager and the physical observation of the crop by field supervisors, precision agriculture uses networks of sensors, satellite imagery, unmanned aerial vehicles (drones), weather stations, and AI-powered analytics to generate a continuous, fine-grained picture of the state of the crop at the level of individual plant rows or even individual plants.

The transformation this represents for tea cultivation is profound, and its pace has accelerated dramatically in the period from 2020 to 2026. Recent studies from 2024 and 2025 show that farms utilising AI-powered precision agriculture technologies report a fifteen to twenty percent increase in crop yields compared to conventional methods, up to thirty percent reduction in water usage via optimised irrigation models, and a twenty-five percent reduction in overall resource input costs including fertilizers, pesticides, and labour. Farmonaut® These are not trivial improvements. In a sector where the economic margins of estate operations have been under sustained pressure, where smallholder farmers operate at or below the threshold of economic viability, and where climate change is introducing new sources of yield volatility, the productivity gains offered by precision agriculture are transformative.

The global AI in agriculture market was valued at approximately 4.7 billion US dollars in 2024 and is estimated to grow at a compound annual growth rate of 26.3 percent between 2025 and 2034. Global Market Insights This growth is driven across multiple sectors of agriculture, and the tea sector, while not always at the cutting edge of agri-technology adoption, is increasingly participating in this transformation. The Kenya Tea Development Agency has piloted satellite-based yield prediction tools. The Tocklai Tea Research Institute in Assam, one of the world's oldest and most respected tea research institutions, has been integrating drone-based disease surveillance into its field extension programmes. Major tea estates in Sri Lanka have invested in automated irrigation systems driven by soil moisture sensors and weather prediction AI. And the Chinese tea sector, which produces the world's largest volume of tea and is at the forefront of many agricultural technology applications, has deployed robotic harvesting systems, electronic noses for quality assessment, and comprehensive digital farm management platforms at scale.

The legal framework that governs these technological deployments is a complex and rapidly evolving patchwork of aviation regulation, data protection law, agricultural regulation, liability rules, and emerging digital technology law. Understanding this framework requires analysis at the level of the specific technologies involved.

32.2 Drone Law in the Tea Sector: Regulatory Frameworks in India, Kenya, and Sri Lanka

The use of unmanned aerial vehicles for crop surveillance, pesticide spraying, and agronomic data collection has become one of the most visible and legally significant technology deployments in tea cultivation. In India, where the regulatory framework for drone operations

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has undergone fundamental reform in recent years, the legal position of drone use in tea gardens is now governed by the Unmanned Aircraft System (UAS) Rules, 2021, notified by the Ministry of Civil Aviation.

The UAS Rules, 2021 replaced an earlier and more restrictive regulatory framework and represent India's most significant modernisation of its approach to civilian drone regulation. Under the 2021 Rules, drones are classified according to their maximum all-up weight (MTOW) into five categories: nano (under 250 grams), micro (between 250 grams and 2 kilograms), small (between 2 and 25 kilograms), medium (between 25 and 150 kilograms), and large (above 150 kilograms). The regulatory requirements that apply to any given drone operation depend on the weight class of the drone, the nature of the operation (visual line of sight, beyond visual line of sight, or extended visual line of sight), and the specific category of airspace in which the operation takes place.

For tea estate drone operations, which typically involve agricultural drones in the small or medium weight category used for crop surveillance, multispectral imaging, or pesticide spraying, the regulatory requirements include drone registration with the Digital Sky Platform operated by the Directorate General of Civil Aviation (DGCA), the remote pilot holding a valid certificate issued by an authorised training organisation, and the operation being conducted within permitted airspace in accordance with the applicable airspace categories (green, yellow, or red) designated in the UAS Rules' airspace map.

The pesticide spraying application of drones in tea cultivation raises a specific regulatory complication that sits at the intersection of aviation law and agricultural pesticide regulation. Under the Insecticides Act, 1968 and the Insecticides Rules, 1971, only those pesticide formulations registered for use on tea by the Central Insecticides Board and Registration Committee (CIBRC) may legally be applied to tea crops. The CIBRC's approval of a pesticide formulation includes approval of specific application methods, and a formulation approved for application by conventional knapsack sprayer or vehicle-mounted sprayer may not automatically be approved for application by drone.

The regulatory gap between drone aviation approval (under the UAS Rules, administered by DGCA) and pesticide application approval (under the Insecticides Act, administered by the Ministry of Agriculture) creates a practical legal problem for estate operators who wish to use agricultural drones for pesticide application. The Ministry of Civil Aviation and the Ministry of Agriculture have been working to develop a harmonised regulatory framework for drone-based pesticide application, and the Ministry of Agriculture issued a Standard Operating Procedure (SOP) for the use of drones in agricultural pesticide application in 2020, updated subsequently. But the specific inclusion of tea as a crop category for which drone-based pesticide applications are formally approved has moved slowly, creating a zone of regulatory uncertainty in which some operators proceed with drone spraying in reliance on general approvals while others wait for specific regulatory clarity.

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In Kenya, the regulatory framework for drone operations is provided by the Kenya Civil Aviation Authority (KCAA) under the Civil Aviation (Unmanned Aircraft Systems) Regulations, 2020. These regulations establish a similar category-based system to India's UAS Rules, with registration, certification, and operational requirements proportionate to the weight and operational profile of the drone. The KCAA has been actively engaged in developing a regulatory environment conducive to the use of drones in agriculture, recognising their potential in the Kenyan agricultural sector, including the tea sector. The Kenya Tea Development Agency has worked with KCAA to develop protocols for the use of drones in the surveillance of smallholder tea plots managed under the KTDA system, with particular attention to the use of multispectral imagery for disease detection and yield estimation.

In Sri Lanka, the Civil Aviation Authority of Sri Lanka (CAASL) issued the Remotely Piloted Aircraft Systems (RPAS) Regulations in 2020, establishing the framework for civilian drone operations. Sri Lanka's regulatory approach has been cautious, with relatively stringent approval requirements particularly for commercial drone operations, reflecting the country's concern about privacy and security implications of widespread drone use. The Sri Lanka Tea Research Institute has been piloting drone-based surveillance of tea estates, working within the CAASL regulatory framework and engaging with the CAASL on the specific requirements for agricultural drone operations in tea-growing areas.

32.3 Satellite Monitoring and Remote Sensing: Legal Framework and Data Governance

Satellite-based remote sensing technology has become an important tool for the monitoring of tea cultivation at both the estate and landscape scale. Multispectral and hyperspectral satellite imagery can reveal information about crop health, soil moisture stress, disease incidence, and yield potential that is difficult or impossible to obtain by ground-level observation at the scale of large estates or the millions of smallholder plots that collectively constitute the Kenyan or Indian smallholder tea sector.

The legal framework governing the use of satellite imagery for agricultural purposes is less immediately obvious than that governing drone operations, because it sits at the intersection of space law, intellectual property law, data protection law, and agricultural regulation. The satellites themselves are governed by international space law, principally the Outer Space Treaty of 1967 and its subsequent instruments, and by the national space legislation of the countries in which the operators are licensed. The imagery they capture is governed by a complex interaction of national data protection law, the terms of service of the satellite data provider, and in some cases national security regulations restricting the resolution or the use of satellite imagery of sensitive areas.

For tea cultivation, the most legally significant issues in satellite monitoring relate to data ownership and data privacy. The satellite imagery of a tea estate reveals commercially sensitive information about the productivity of individual plots, the incidence of disease or pest pressure, the state of the irrigation infrastructure, and the pattern of harvesting activity. This information has commercial value: it could be used by buyers to assess the likely quality and quantity of

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forthcoming auction lots, by insurers to assess crop insurance claims, by competitors to benchmark their own performance, and by regulatory authorities to assess compliance with environmental or labour standards.

The question of who owns this data, and who has the right to use it for these various purposes, is one that current legal frameworks address inadequately. The operators of the satellites that capture the imagery hold intellectual property rights (typically copyright) in the imagery itself. The estate owner or farmer whose land is imaged has no automatic legal right to access the imagery of their own land, and depending on the jurisdiction and the terms under which the imagery is made available, may be unable to prevent the satellite operator from licensing the imagery to third parties.

This data ownership asymmetry is particularly significant for smallholder farmers who participate in digital agriculture platforms that aggregate their farm-level data alongside satellite and sensor data to provide advisory services. These platforms, whether operated by private agri-technology companies, development organisations, or cooperatives, typically collect extensive data about the farmer's production, practices, and performance. The terms on which this data is collected, used, and shared are typically determined by the platform operator rather than the farmer, creating a situation in which the farmer generates data about their own land and labour that they do not control.

The EU Data Act, which entered into application in September 2025, provides the most advanced legal framework currently available for agricultural data rights. Its provisions giving users of connected products and services the right to access the data they generate, to share it with parties of their choice, and to have it ported to competing platforms represent a significant shift toward farmer data sovereignty. But the Data Act's geographic scope is limited to the EU, and the data generated by tea farmers in India, Kenya, Bangladesh, or Sri Lanka using non-EU platforms falls outside its protections.

32.4 Liability Issues in Precision Agriculture: When the Algorithm Fails

One of the most important and least-developed areas of precision agriculture law is the question of liability when algorithmic advice or automated decision-making leads to crop damage, regulatory violation, or economic loss. The traditional law of negligence and product liability, developed in a world of human advisers, physical products, and clearly delineated professional responsibilities, struggles to map cleanly onto a world of AI-generated crop management recommendations, autonomous irrigation systems, and drone-based pesticide application.

Consider a scenario that is not merely hypothetical but represents a real risk in the deployment of precision agriculture technologies in tea cultivation. An estate operator subscribes to an AI-powered crop management platform that integrates satellite imagery, weather data, soil sensor readings, and historical pest pressure data to generate recommendations for pesticide application. The AI system recommends application of a specific pesticide at a specific concentration on a specific date. The operator follows the recommendation. The application is made by drone in

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accordance with the drone operator's approved operational procedures. Subsequently, the tea produced from that plot is rejected by an EU importer because it contains pesticide residues above the EU's maximum residue limit. The estate operator loses the value of the entire lot, incurs costs of return shipment and disposal, and faces reputational damage with the buyer.

Who is legally responsible for this loss? Potentially liable parties include the platform provider that generated the AI recommendation, the drone operator that applied the pesticide, the supplier of the pesticide, the regulatory authority that set the EU MRL at a level below what a correct agronomic application would produce, and the estate operator itself for failure to exercise due care in following AI-generated advice without independent verification.

The distribution of liability between these parties depends on the specific terms of the contracts between them, the applicable law on product liability and professional negligence, and the evolving jurisprudence on the liability of AI systems and their operators. In India, the applicable law includes the Consumer Protection Act, 2019 (which covers digital service providers and imposes liability for defects in services), the Information Technology Act, 2000 (which provides a framework for liability of network service providers), and the general law of tortious negligence. None of these frameworks was designed with AI-powered agricultural advisory systems in mind, and their application to this scenario requires creative legal argument in conditions of significant doctrinal uncertainty.

The EU Product Liability Directive, revised in 2024 and entering into force in 2026, takes an important step toward addressing AI liability by extending product liability to digital products and AI systems, including agricultural advisory systems that influence physical outputs. Under the revised Directive, the developer of an AI system that causes damage by generating defective advice may be held strictly liable without the need to prove negligence. The implications of this revision for the developers of precision agriculture platforms used in the tea sector are significant, and are likely to drive changes in the design of AI agricultural advisory systems, the terms of their contracts with farmers, and the insurance products associated with them.

32.5 The Right to Repair and Agricultural Technology Lock-In

One of the emerging controversies at the intersection of agricultural technology law and competition law is the so-called right to repair: the right of farmers to repair and maintain the agricultural technology they have purchased, and the related right to have that technology serviced by independent technicians rather than being locked into manufacturer-provided service arrangements.

In the context of tea cultivation, the right to repair issue arises most acutely in relation to automated and semi-automated processing machinery, electronic monitoring equipment, and the software systems that manage precision irrigation, climate control in processing factories, and data aggregation for farm management. Large tea processing factories have made significant capital investments in automated CTC machinery, withering trough management systems, and drying machinery equipped with electronic controls. The manufacturers of this equipment often

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supply proprietary software that controls the machinery and can only be updated or modified by the manufacturer's authorised technicians.

When this software-controlled machinery develops a fault, the estate operator may be dependent on the manufacturer's technical support for repair, even for faults that could readily be diagnosed and fixed by a locally trained technician. The combination of intellectual property protection for the software (which prevents independent technicians from accessing the code), practical restrictions on access to diagnostic tools (which manufacturers typically provide only to their authorised service network), and contractual restrictions in the equipment purchase agreement (which may include provisions prohibiting unauthorised modification or repair) creates a condition of technological lock-in that can be highly prejudicial to estate operators, particularly those in remote areas where manufacturer service networks may not operate.

The right to repair has been recognised as a significant agricultural policy issue by the US Federal Trade Commission, which in 2021 published a report on repair restrictions in the agricultural equipment sector and recommended a legislative response. The EU Right to Repair Regulation, adopted in 2024, establishes a right to repair framework for specific product categories, though agricultural machinery was not included in the initial scope. The Indian Consumer Protection Act, 2019 does not explicitly address right to repair issues, and the specific legal framework for repair restrictions on agricultural technology in India remains underdeveloped.

CHAPTER THIRTY-THREE: BIOTECHNOLOGY LAW AND THE TEA PLANT: FROM TISSUE CULTURE TO CRISPR-CAS9

33.1 The Intellectual Property Framework for New Tea Varieties

The development and protection of new tea plant varieties is one of the most intellectually rich and practically significant areas of intellectual property law in the tea sector. Plant variety protection (PVP) is a sui generis form of intellectual property distinct from both patent protection and copyright, developed in the twentieth century to address the specific challenges of protecting agricultural innovations in a medium, the plant kingdom, where the product of the innovative act literally reproduces itself and spreads across seasons and farms.

The international framework for plant variety protection is provided by the International Convention for the Protection of New Varieties of Plants (UPOV Convention), which has been revised several times since its original adoption in 1961. The UPOV Convention establishes a system under which plant varieties that are distinct from all other known varieties, uniform across their members, and stable across successive generations may receive protection conferring on the breeder the exclusive right to produce, sell, and export planting material of the protected variety for a specified period (typically twenty to twenty-five years for vegetatively propagated crops, which includes most commercially grown tea cultivars).

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India acceded to the UPOV Convention as part of its TRIPS compliance obligations, and the Protection of Plant Varieties and Farmers' Rights (PPVFR) Act, 2001 provides the domestic framework for plant variety protection in India. The PPVFR Act is notable for its inclusion of farmers' rights alongside breeders' rights, reflecting India's position in the negotiations leading to the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) and its commitment to recognising the contribution of farming communities to the development and conservation of plant genetic diversity.

The PPVFR Act's farmers' rights provisions are significant for the tea sector. The Act explicitly protects the right of farmers to save, use, sow, resow, exchange, share, or sell farm produce of a protected variety, subject to the important limitation that the farmer may not sell the protected variety as branded seed under its commercial denomination. This farmers' privilege is narrower than the privilege available under earlier agricultural law frameworks and reflects the pressure of developed country trading partners and the plant breeding industry to limit the scope of farmers' rights in the interest of protecting breeders' commercial interests. For tea, where the planting material is typically vegetatively propagated from cuttings rather than grown from seed, the practical scope of the farmers' privilege is somewhat different from its scope in seed crops, and its application to the sharing of tea cuttings between farmers and the maintenance of farm-saved vegetative planting material raises specific questions that the PPVFR Act's drafters may not have fully anticipated.

33.2 Plant Breeders' Rights and the Specific Challenges of Tea Cultivar Protection

The protection of tea cultivars under the PPVFR framework raises specific challenges that reflect the biological peculiarities of the tea plant and the social structures of the tea industry. The tea plant (Camellia sinensis) is an outbred, cross-pollinating species, which means that seed-propagated plants derived from a single mother plant will exhibit significant genetic variation and will not breed true to the characteristics of the mother. This biological reality means that commercially significant tea cultivars are invariably maintained and propagated vegetatively, through stem cuttings that are genetically identical (or nearly so) to the mother plant.

The vegetative propagation characteristic of tea has important consequences for plant variety protection. Because commercial tea cultivars are propagated from cuttings rather than from seed, the breeder's ability to control the distribution of the protected variety depends on controlling access to the physical planting material (the cuttings) rather than on controlling the sale of seed. In practice, once a protected tea cultivar is established on multiple farms, the physical control of planting material becomes difficult or impossible: farmers who want to propagate a new cultivar from cuttings of existing plants on neighbouring farms will do so regardless of whether the variety is formally protected, and the enforcement costs of preventing this would be prohibitive.

This practical challenge to the effective enforcement of plant variety protection in tea highlights a broader tension in the PPVFR framework between the formal allocation of intellectual property rights and the practical realities of agricultural knowledge sharing. Tea cultivation in South Asia and East Africa has traditionally been characterised by significant sharing of planting material,

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agronomic knowledge, and processing practices between estates and between farmers. This knowledge commons, which has enabled the rapid spread of improved cultivars and has been a significant driver of productivity improvement in the smallholder sector, is potentially threatened by an intellectual property framework that seeks to privatise and restrict access to improved cultivars.

The protection of germplasm diversity from appropriation by commercial plant breeders is addressed in the PPVFR Act through its provisions on the rights of communities to seek benefit sharing from the commercialisation of varieties derived from plant genetic resources conserved by those communities. Under the Act, any person seeking registration of a variety that has been essentially derived from a variety that a farming community has conserved and bred is required to seek the prior consent of the relevant community authority and to share in the benefits of commercialisation. This benefit-sharing provision is an attempt to translate the principles of the Convention on Biological Diversity and the Nagoya Protocol into the specific context of plant variety protection, and its application to the tea sector raises fascinating questions about the identification of "farming communities" in an industry where the genetic heritage of tea cultivation is distributed across millions of farms in dozens of countries over thousands of years.

33.3 CRISPR-Cas9 and the Future of Tea Plant Biotechnology: Regulatory and IP Challenges

The emergence of CRISPR-Cas9 and related gene editing technologies represents the most significant development in plant biotechnology since the introduction of genetic modification (GM) technology in the 1990s, and its implications for the tea sector are profound at both the technical and the legal level.

CRISPR-Cas9 (Clustered Regularly Interspaced Short Palindromic Repeats with CRISPR-associated protein 9) is a molecular tool that enables highly precise, targeted modifications to the DNA of living organisms, including crop plants. Unlike earlier GM technologies, which typically involve the introduction of foreign genetic material from unrelated organisms, CRISPR-based gene editing can make changes to the plant's own genome that are in principle indistinguishable from naturally occurring mutations. This characteristic has fuelled a major policy debate about whether gene-edited plants should be regulated as GM organisms under existing GMO regulatory frameworks, or whether they should be treated more like conventionally bred varieties and subject to lighter regulation.

For the tea plant specifically, scientists have been making significant advances in CRISPR-based gene editing of Camellia sinensis. Researchers have demonstrated that blocking specific gene regulators significantly downregulates the caffeine synthesis pathway, with HPLC results confirming reductions of caffeine content in transgenic callus by 97.5 percent using Cas9-mediated gene editing. Scientists have also successfully performed targeted modification of candidate genes potentially involved in cold adaptation of tea plants. Nature These research achievements point toward a near-future in which commercially cultivated tea varieties might be developed through gene editing to exhibit dramatically different caffeine profiles, enhanced cold

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tolerance enabling cultivation at higher altitudes or in new geographic areas, disease resistance eliminating or reducing the need for pesticide application, and novel flavour compound profiles creating new premium market opportunities.

The regulatory framework governing gene-edited plants in the major tea-producing and tea-consuming countries is in a state of flux that creates significant legal uncertainty for anyone seeking to develop and commercialise gene-edited tea varieties. In the European Union, the European Court of Justice's 2018 ruling in Case C-528/16 (Confédération paysanne v. Premier ministre) held that organisms obtained by mutagenesis techniques are in principle genetically modified organisms within the meaning of the GMO Directive (Directive 2001/18/EC), and that only organisms obtained by traditional mutagenesis techniques that have a long safety record may be exempted from GMO regulation. This ruling effectively subjected CRISPR-edited plants to the full rigour of EU GMO regulation, including the requirement for pre-market safety assessment, environmental risk assessment, and case-by-case authorisation before commercial release.

The European Commission proposed in July 2023 a regulation aiming to ease the requirements for the marketing authorisation of plants obtained through certain new genomic techniques within the European Union, distinguishing between those that could have occurred naturally or through conventional breeding (NGT1) and those with more extensive modifications (NGT2). While the Commission's proposal sought to deregulate NGT1 plants, the European Parliament proposed a ban on all patents for NGT plants in 2024. In contrast, the Council of the EU launched a mandate for negotiations with the European Parliament in March 2025, instructing a reform within the existing patent system rather than a wholesale ban. Oxford Academic

This legislative saga illustrates the depth of the political and philosophical controversy surrounding the regulation of gene-edited plants in the EU context, and the difficulty of achieving a stable legal framework in a policy environment characterised by intense lobbying from agricultural biotechnology corporations on one side and environmental and smallholder farmer advocacy organisations on the other. For tea, the outcome of this legislative process will determine whether gene-edited tea varieties can be marketed in the EU without going through the full GMO approval process, which is prohibitively expensive for any but the largest agricultural biotechnology companies.

In India, the regulatory framework for gene-edited organisms is provided by the Environment Protection Act, 1986 and the Rules for the Manufacture, Use, Import, Export and Storage of Hazardous Microorganisms/Genetically Engineered Organisms or Cells, 1989 (usually referred to as the "Rules 1989"), administered by the Genetic Engineering Appraisal Committee (GEAC) under the Ministry of Environment, Forest and Climate Change. India's regulatory position on gene-edited plants has been evolving. In 2022, the GEAC announced an exemption from biosafety assessment for certain categories of gene-edited plants in which no foreign DNA has been introduced and the edits fall within the scope of mutations that could have arisen naturally. This exemption, which aligns India's position broadly with that of the United States, Argentina, and Japan, is potentially very significant for the development of gene-edited tea varieties in

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India, as it could allow such varieties to be developed and released without the lengthy and expensive regulatory approval process that would apply to conventionally classified GMO crops.

The intellectual property dimension of CRISPR-edited tea plants is equally complex and controversial. As of 2024, the CRISPR-Cas9 patent landscape remains one of the most contested in biotechnology, with the Broad Institute (affiliated with Harvard and MIT) holding patents primarily covering CRISPR-Cas9 applications in eukaryotic cells, while the University of California holds foundational patents covering its use across all cellular types, including in agricultural biotechnology where the use of CRISPR to develop genetically modified crops is flourishing. Patsnap Synapse

The implications of this US patent dispute for agricultural biotechnology in tea-producing countries like India, Kenya, and Sri Lanka depend on the complex question of patent territoriality and the licensing arrangements under which institutions in these countries access CRISPR technology for research and development. Research institutions in India that develop gene-edited tea varieties using CRISPR-Cas9 technology may need to obtain licences from the patent holders if they wish to commercialise the resulting varieties, a requirement that could create significant access costs and potentially foreclose commercialisation by smaller public sector institutions and farmers' cooperatives. The expected CRISPR licensing disputes of 2025 focused not only on who invented the technology first but on how disputes over licence agreements and indemnification clauses surrounding the technology would move forward, as the field had been using CRISPR-Cas9 for years and engaging in a host of different licensing agreements and contractual frameworks. Wolfgreenfield

33.4 The EU New Genomic Techniques Regulation and Its Implications for Tea Trade

The debate about the regulatory and intellectual property framework for gene-edited plants in the EU has very direct implications for the tea trade between India and the EU, because the regulatory status of gene-edited tea in the EU market will determine whether gene-edited Indian tea varieties can be legally exported to and sold in the EU.

Under the current EU GMO Directive, as interpreted by the 2018 Court of Justice ruling, any tea variety developed using CRISPR or other new genomic techniques would in principle be classified as a genetically modified organism and would require full GMO marketing authorisation before it could be sold in the EU market. Since no such authorisation has been granted for any food product produced from a CRISPR-edited plant (as distinct from the plant variety itself), the practical consequence is that gene-edited tea could not legally be exported to the EU under the current framework, even if it has been cleared for commercial release in India.

The proposed EU NGT Regulation, if it enters into force in a form that exempts NGT1 plants (those with modifications equivalent to conventional breeding) from GMO treatment, would remove this barrier for qualifying gene-edited tea varieties. But the labelling provisions of the proposed regulation, which require NGT1 products to be labelled as produced using new genomic techniques, would nonetheless create a market signal that some EU consumers might

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interpret negatively, potentially limiting the commercial advantage of using gene editing for tea breeding.

Members of the European Parliament voted to ban patents on NGT plants in order to avoid legal uncertainties, increased costs and new dependencies for farmers and breeders. This patent ban reflected concerns voiced by farmers and breeders about the potential for large agricultural biotechnology companies to patent the products of gene editing and thereby create dependencies for farmers similar to those that have characterised the seed corn market dominated by companies like Monsanto and Bayer. Taylor & Francis Online These concerns are directly relevant to the tea sector: if the development of gene-edited tea varieties with desirable commercial traits (caffeine-free, disease-resistant, climate-adapted) is patented by large agricultural biotechnology corporations, the resulting intellectual property structure could significantly constrain the freedom of tea breeders, estate operators, and smallholder farmers to use improved varieties without paying licence fees.

33.5 Tissue Culture and the Legal Status of Clonal Propagation

Between conventional vegetative propagation from cuttings and the cutting-edge gene editing technologies, tissue culture represents an intermediate biotechnology that has been commercially important in tea cultivation for several decades. Tissue culture (the propagation of new plants from small pieces of plant tissue cultured in sterile conditions on artificial growth media) enables the rapid multiplication of elite clones and the production of disease-free planting material at a scale and speed not achievable by conventional cutting propagation.

The legal status of tissue culture propagation in the context of plant variety protection law is important and sometimes uncertain. A plant variety that is protected under the PPVFR Act or its international equivalents may not be propagated for commercial purposes without the licence of the breeder. This prohibition extends to tissue culture propagation: a farmer or nursery that produces tissue culture plantlets of a protected tea variety without the breeder's authorisation is infringing the plant variety right in the same way as a farmer who takes cuttings of a protected variety without authorisation.

The enforcement of this prohibition in relation to tissue culture propagation is easier than the enforcement of breeders' rights against cutting propagation, because tissue culture propagation requires laboratory infrastructure and expertise that is readily identifiable and can be audited. Registered tissue culture laboratories in India, for example, are required to disclose the varieties they propagate and the source of their planting material, creating a compliance trail that enables identification of unauthorised propagation of protected varieties.

The interaction between tissue culture technology and the farmers' rights provisions of the PPVFR Act raises an interesting specific question. If a farmer purchases tissue culture plantlets of a protected variety from a registered nursery, and then establishes those plantlets as mother bushes from which they take cuttings for further propagation on their farm, is the cutting propagation protected under the farmers' privilege? The text of the PPVFR Act is not entirely

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clear on this point, and the question has not yet been definitively resolved by the Protection of Plant Varieties and Farmers' Rights Authority or by the courts.

CHAPTER THIRTY-FOUR: DIGITAL LABOUR MANAGEMENT AND ITS LEGAL CONSEQUENCES: SURVEILLANCE, CONTROL, AND WORKERS' RIGHTS

34.1 The Digital Transformation of Labour Management in Tea

The management of labour in tea cultivation has historically been characterised by direct, personal oversight: the plucking supervisor walking the rows, assessing the quality of the pluck, counting the number of rounds completed, and weighing the leaf brought to the collection point. This system, grounded in physical proximity and human judgement, is being rapidly augmented and in some cases replaced by digital technologies that enable remote monitoring of worker activity, electronic weighing and quality assessment at the collection point, and data-driven management of labour allocation and performance incentives.

The specific digital labour management technologies being deployed in the tea sector include biometric time-and-attendance systems (typically fingerprint or facial recognition-based systems that record workers' arrival, departure, and break times), electronic weighing systems at green leaf collection points that record the weight of each worker's plucked leaf and link it automatically to their individual employment record, GPS-based tracking of workers' movements within the estate, drone-based surveillance of plucking activity in the field, and digital performance management platforms that aggregate all of this data to generate individual performance scorecards and automatic wage calculations.

These technologies offer genuine efficiency and accuracy advantages over traditional manual recording systems, which were susceptible to human error, favouritism, and deliberate manipulation in both directions (by supervisors who falsified records against workers and by workers who sought to record more leaf than they had plucked). The replacement of manual recording with automated digital systems can in principle produce more accurate wage calculations, reduce the scope for arbitrary deductions, and create a verifiable record that protects workers' rights in wage disputes.

But the same digital systems that protect workers against some forms of exploitation create new forms of surveillance and control that raise profound human rights, privacy, and labour law concerns. Workers who are constantly tracked by GPS, monitored by drone, and subjected to biometric identity verification are workers whose every movement, productivity level, and rest break is recorded and potentially evaluated by their employer. This pervasive surveillance creates conditions of performance pressure and psychological stress that can have serious consequences for worker wellbeing, and it enables new forms of labour discipline and control that may not be covered by existing labour law frameworks developed in a pre-digital era.

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34.2 Biometric Data in the Workplace: Privacy Law and Labour Rights

The use of biometric data (fingerprints, facial features, iris patterns, voice characteristics) for worker time-and-attendance management is now widespread in the tea sector, particularly in larger Indian and Sri Lankan estates. Biometric systems are preferred over card-based or manual systems because they eliminate the possibility of one worker clocking in or out on behalf of another, and they are more resistant to tampering.

In India, the legal framework governing the collection, storage, and use of biometric data in the workplace is provided primarily by the Digital Personal Data Protection Act, 2023 (DPDPA), which was enacted to provide a comprehensive framework for personal data protection and replaced the earlier draft Personal Data Protection Bill. The DPDPA classifies biometric data as sensitive personal data requiring explicit consent for collection and use, and it imposes specific obligations on data fiduciaries (persons who determine the purpose and means of data processing) regarding data security, data minimisation, purpose limitation, and data subject rights.

The application of the DPDPA to biometric time-and-attendance systems in tea estates raises specific compliance questions. The employer as data fiduciary is required to obtain the explicit, informed, and freely given consent of each worker before collecting their biometric data. The condition that the consent be "freely given" is potentially problematic in the plantation employment context, where workers' employment depends on their employer's goodwill and where the power asymmetry between employer and worker may make genuinely free consent difficult to establish. If a worker who refuses to provide biometric data faces negative consequences for their employment (being excluded from the biometric wage payment system, being treated as absent on the days they cannot be electronically verified, or simply facing informal pressure from supervisors), then the consent obtained to the biometric data collection is not truly free in the sense required by the DPDPA.

The DPDPA also requires that personal data be collected only for specific, lawful purposes and not retained beyond the period necessary for those purposes. For biometric time-and-attendance data, the specific lawful purpose is the management of time-and-attendance records for payroll and compliance purposes. The use of the same biometric data for broader worker performance monitoring, for identifying workers who associate with trade union organisers, or for creating psychological profiles of worker behaviour would likely fall outside the specified purpose and would constitute a violation of the DPDPA's purpose limitation principle.

The enforcement of the DPDPA in the plantation sector is not guaranteed to be effective. The Data Protection Board, established by the DPDPA to handle complaints and enforce the Act's provisions, is a newly established institution whose capacity and priorities are still being developed. Workers who experience violations of their data rights in a remote plantation setting face the same access to justice barriers discussed in Part Two (Chapter 23) that limit their ability to enforce any other legal right.

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In Kenya, the Data Protection Act, 2019 provides a similar framework for personal data protection, including the requirement of consent for processing sensitive personal data such as biometric data. The Office of the Data Protection Commissioner (ODPC), established under the Act, has been actively developing its enforcement capacity and has issued guidance on the processing of biometric data that is relevant to the tea sector. The ODPC has emphasised that employers who collect biometric data from workers must conduct a data protection impact assessment (DPIA) before implementing biometric systems, must ensure that alternative means of time-and-attendance recording are available to workers who do not consent to biometric data collection, and must provide workers with a clear and intelligible privacy notice explaining how their biometric data will be used.

34.3 GPS Tracking and Algorithmic Management: The Law of Continuous Surveillance

The deployment of GPS tracking devices on workers in the tea sector, whether through GPS-enabled mobile devices issued to supervisors and linked to worker location, drone surveillance of field operations, or GPS-enabled transport vehicles that workers board, represents a form of continuous workplace surveillance that has no precedent in the history of industrial labour relations.

The legal framework governing GPS tracking of workers in the workplace is addressed in most jurisdictions through a combination of data protection law (which requires that location data, as personal data, be collected and used in accordance with the principles of purpose limitation, data minimisation, and transparency), employment law (which may impose specific constraints on surveillance of workers), and constitutional law (where the right to privacy has been recognised, as in India's Supreme Court landmark ruling in Justice K.S. Puttaswamy v. Union of India (2017), as a fundamental right under Article 21 of the Constitution).

The Puttaswamy judgment's recognition of privacy as a fundamental right has direct implications for the lawfulness of GPS surveillance of plantation workers in India. The court's analysis emphasised that the right to privacy encompasses the right to informational privacy (the right to control information about oneself) as well as the right to physical privacy (the right to be free from unwarranted surveillance of one's bodily movements). The continuous tracking of a worker's location throughout their working day, including their movements during rest breaks and their route to and from work within the estate, may engage the right to physical privacy in ways that require justification under the proportionality test that the Puttaswamy judgment established for any limitation on fundamental rights.

The proportionality test, drawn from German constitutional law and adopted by the Supreme Court in Puttaswamy, requires that any limitation of a fundamental right be pursued in furtherance of a legitimate aim, be rationally connected to that aim, be the least restrictive means of achieving the aim, and be proportionate in its impact. Applied to GPS surveillance of plantation workers, this test would require the employer to demonstrate that the specific purposes for which GPS tracking is used are legitimate, that those purposes cannot be achieved by less

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intrusive means, and that the adverse impact on workers' privacy is proportionate to the benefits obtained.

The use of GPS tracking to ensure that workers are present in the correct field sections during their working hours, to coordinate labour allocation between sections, and to verify that workers are not leaving the estate without authorisation during working hours might satisfy the proportionality test in some interpretations. The use of GPS tracking to monitor workers' movements during rest breaks, to track their associations with other workers or union organisers, or to generate location data that could be used in disciplinary proceedings for minor infractions would be much harder to justify.

34.4 Algorithmic Wage Calculation and Workers' Rights to Transparency

The replacement of manually calculated wages with algorithmic wage calculation systems raises specific issues of transparency, accountability, and workers' rights that are of direct importance in the tea plantation setting. In the traditional system, a worker's wage is calculated by a payroll officer who applies the applicable wage rate, overtime rate, deduction rules, and attendance records to produce a wage slip that the worker can (in principle) verify against their own understanding of their work record.

In a fully automated digital system, the same calculation is performed by software that applies programmed rules to digital records of attendance, output, quality, and other performance metrics. The worker receives a wage slip (possibly a digital slip transmitted to their mobile phone) showing the result of this calculation, but may have no practical means of understanding or verifying the rules that produced that result.

This opacity of algorithmic wage calculation is a significant labour rights concern. Workers who receive a wage that appears to them to be incorrectly calculated face the challenge of challenging a decision made by a system whose rules they cannot access and whose operation they cannot observe. The burden of proof in any wage dispute typically falls on the worker to show that the calculation is wrong, but if the worker cannot access the algorithm's rules, the basis for the calculation, or the input data used, this burden may be impossible to discharge in practice.

The right to know the basis of wage calculations is not currently explicitly protected by the Labour Codes enacted in India on November 21, 2025, but it is implied by the general requirements of the Code on Wages, 2019 regarding the provision of wage slips showing the basis of wage calculation. The implementing rules under the Code on Wages provide that every employer must give the worker a wage slip showing the net wage payable, the deductions made, and the basis of calculation. The question of whether the rule is satisfied by a wage slip that shows the numerical result of an algorithm's calculation without disclosing the algorithm's rules is not explicitly addressed in the rules, and is likely to be the subject of litigation as algorithmic wage systems become more common.

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The right to explanation of algorithmic decisions, which has been significantly developed in the data protection law of the EU (through the General Data Protection Regulation's provisions on automated individual decision-making, and the AI Act's provisions on high-risk AI systems), provides a useful comparative framework for thinking about what workers' transparency rights in relation to algorithmic wage calculation should be. The EU AI Act, adopted in 2024, classifies AI systems used in employment and worker management contexts as high-risk AI systems subject to specific obligations of transparency, accuracy, and human oversight. While the EU AI Act does not directly apply in India, its framework provides a model that Indian legislators and courts might draw upon in developing the domestic law of algorithmic employment management.

34.5 The Digital Disciplinary Process: Due Process Rights in the Age of Algorithmic Evidence

The digital monitoring technologies deployed in the tea sector generate data that may be used as evidence in disciplinary proceedings against workers. A worker accused of leaving their assigned work area without authorisation may face GPS data showing their location at the relevant time. A worker accused of poor quality plucking may face electronic quality assessment records from the collection point scanner. A worker accused of damaging machinery may face CCTV footage from the factory floor.

The use of digital evidence in disciplinary proceedings is not inherently objectionable. Indeed, the availability of objective electronic records may protect workers against the arbitrary exercise of disciplinary power by supervisors whose personal biases or conflicts of interest might otherwise influence disciplinary outcomes. But the use of digital evidence raises specific procedural fairness concerns that the existing framework of industrial relations law, developed primarily in relation to oral evidence and paper documentation, may not adequately address.

The worker's right to a fair hearing in disciplinary proceedings is protected under the general principles of natural justice (audi alteram partem, the right to be heard) and the specific requirements of the Industrial Employment (Standing Orders) Act, 1946 and its successor provisions under the Industrial Relations Code, 2020. These frameworks establish minimum procedural standards for disciplinary proceedings, including the requirement that the worker be given notice of the charges, the opportunity to present their case, and the right to representation by a union official or a co-worker.

But these frameworks were not designed with digital evidence in mind. They do not address the specific questions of how digital evidence should be authenticated, how the worker or their representative should be given meaningful access to the underlying data rather than just the summary or conclusion derived from it, how the accuracy of the systems that generated the data should be established, and how the worker should be able to challenge the interpretation of data that appears to tell one story but may be explainable by alternative interpretations (for example, a GPS record showing the worker in an unauthorised area that could equally be explained by a device malfunction or a legitimate errand that was not officially recorded).

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The development of specific procedural rules for the use of digital evidence in plantation disciplinary proceedings is one of the most pressing practical legal reform needs in the digital labour management domain. Advocates of workers' rights in the tea sector, including the trade unions affiliated with the Indian National Trade Union Congress and the Centre of Indian Trade Unions, have begun to raise these issues in collective bargaining negotiations and in submissions to the plantation labour departments responsible for overseeing compliance with the Plantation Labour Act and its successor provisions under the Occupational Safety, Health and Working Conditions Code, 2020.

CHAPTER THIRTY-FIVE: ARTIFICIAL INTELLIGENCE IN TEA QUALITY ASSESSMENT AND TRADING: ACCOUNTABILITY, LIABILITY, AND THE LAW OF ALGORITHMIC COMMERCE

35.1 AI-Powered Quality Assessment: The Electronic Nose and Machine Vision

The assessment of tea quality is one of the most skill-intensive and knowledge-intensive activities in the entire tea industry. The trained tea taster, who can assess the quality of a cup of tea through its appearance, aroma, taste, and aftertaste against a calibrated scale of flavour descriptors, is one of the most rare and highly regarded professionals in the sector. The judgements of skilled tea tasters determine which lots command premium prices at auction, which blends reach the consumer's cup, and which estates build reputations for quality that translate into lasting commercial advantage.

This expert human knowledge is now being challenged, supplemented, and in some dimensions surpassed by artificial intelligence systems that can assess tea quality with speed and consistency that no human taster can match, even if the depth and nuance of AI quality assessment remains in some respects inferior to that of the best human experts. Artificial intelligence algorithms enhance the efficiency and accuracy of tea quality testing when integrated with emerging technologies, thereby promoting the healthy and sustainable development of the tea industry. Machine learning and deep learning algorithms are being applied to sensor technology and spectral technology to efficiently detect tea quality. ScienceDirect

The specific AI technologies used for tea quality assessment include electronic nose systems (which use arrays of chemical sensors to detect and characterise the volatile organic compounds that make up the aroma profile of tea), machine vision systems (which assess the visual characteristics of made tea using high-resolution imaging and image processing algorithms), near-infrared (NIR) spectroscopy combined with chemometric modelling (which correlates the spectral signature of a tea sample with its chemical composition and thereby predicts flavour characteristics without the need for physical tasting), and neural network models trained on large datasets of human taster assessments linked to objective chemical and physical measurements.

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The deployment of these AI quality assessment systems in commercially significant contexts, including the grading of tea for auction and the quality testing of export consignments, raises important questions about the legal status and authority of AI-generated quality assessments. When a traditional tea taster grades a parcel of tea, their assessment is the product of a human expert exercising professional judgement, and their professional accountability for that judgement is grounded in the law of professional negligence, their professional reputation, and the contractual framework of their employment or engagement. When an AI system generates a quality grade, the accountability framework is fundamentally different, and in important respects less clear.

35.2 The Legal Status of AI Quality Assessments: Between Evidence and Authority

The question of the legal status of AI-generated quality assessments in the tea sector connects to a broader and rapidly developing jurisprudence about the evidential status of AI outputs and the accountability of those who rely on them. In the context of tea quality disputes, the question arises most acutely when an exporter challenges a rejection of a consignment on the grounds of quality failure, or when a seller challenges the auction grade assigned to their lot as undervaluing the tea.

Under the Indian Evidence Act, 1872 (recently replaced by the Bharatiya Sakshya Adhiniyam, 2023), electronic records are admissible as evidence subject to specific authentication requirements. The authentication of AI-generated quality assessment records requires demonstrating that the AI system that produced the assessment was operating correctly at the relevant time, that the input data (the sample) was correctly collected and processed, and that the output accurately reflects the system's assessment of that input. These authentication requirements are analogous to those that apply to electronic records generally, but they raise specific challenges in the context of AI systems whose internal decision processes may not be fully transparent even to their operators.

The opacity of AI decision-making, often described as the "black box" problem, is the central challenge for the legal accountability of AI-generated quality assessments. A machine vision system that assigns a leaf grade to a tea parcel may do so through a neural network that has learned to associate certain image features with certain grades from a training dataset, but the specific features that drove the grade assignment in any particular case may not be recoverable from the system. When a seller challenges the grade assigned by such a system, arguing that the tea was undergraded and that they suffered economic loss as a result, the court or arbitral body hearing the challenge faces the difficulty of evaluating an AI decision whose internal reasoning is not directly accessible.

The EU Artificial Intelligence Act, adopted in 2024, provides the most advanced legal framework currently available for the accountability of AI systems in high-stakes commercial and regulatory contexts. The AI Act classifies AI systems according to their risk level, with "high-risk" AI systems subject to specific obligations including conformity assessment, documentation and logging requirements, human oversight mechanisms, and transparency

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obligations toward users and affected persons. AI systems used in the assessment of goods for trade, which would encompass tea quality grading systems used in auction or export inspection contexts, may fall within the high-risk category, triggering these enhanced accountability obligations.

The AI Act's transparency obligations require that users of high-risk AI systems be provided with sufficient information about the system's characteristics, limitations, and the circumstances under which it should not be relied upon without human oversight. For tea quality grading systems, this transparency obligation would require that the operators of AI grading systems provide auction participants, exporters, and regulatory authorities with information about the accuracy of the system (including its error rates on different tea types and grades), the conditions under which it performs reliably and those under which its accuracy decreases, and the procedure for requesting human review of a grade that a party believes to be incorrect.

The human oversight requirement of the AI Act is particularly important for tea quality assessment. The Act requires that high-risk AI systems be designed to allow effective human oversight, including the ability for human operators to monitor the system's operation, identify anomalies, and override the system's outputs when appropriate. For tea quality grading, this requirement would preclude a fully autonomous grading system that issues grades without any possibility of human review, and would require that a qualified human tea taster be available to review and if necessary override grades assigned by the AI system in cases where the system's output is contested or where quality parameters fall outside the system's established operating range.

35.3 AI in Tea Price Prediction and Market Intelligence: Competition Law and Market Manipulation

Beyond quality assessment, AI is increasingly being used in the tea market for price prediction, market intelligence, and trading optimisation. Large tea trading companies and auction participants use machine learning models trained on historical auction price data, production data, weather and climate data, export statistics, and consumer market data to forecast future tea prices with increasing accuracy. These price prediction models inform trading decisions, hedging strategies, and the setting of reserve prices at auction.

The deployment of AI price prediction models in the tea auction market raises competition law concerns that require careful legal analysis. The central concern is that AI-powered price prediction could, in certain circumstances, be used to facilitate or substitute for explicit cartel coordination between buyers. If multiple buyers use AI systems trained on the same data, built by the same developers, or designed with similar parameters, those systems might converge on similar price predictions and thereby effectively coordinate buyer behaviour without any explicit communication between the buyers.

This form of implicit algorithmic coordination, sometimes described in the competition law literature as a "hub and spoke" cartel mediated by a common AI tool or algorithm, is an area of

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active regulatory attention in multiple jurisdictions. The European Commission's Competition Directorate-General has published guidance on the application of EU competition law to algorithmic systems, noting that the use of a common algorithm by competitors may constitute an anticompetitive agreement where the competitors can reasonably foresee that the algorithm will lead to coordinated market behaviour. The Competition Commission of India has similarly signalled its interest in algorithmic competition issues in guidance documents and enforcement decisions in other sectors.

The specific application of these competition law principles to the use of AI price prediction tools in tea auctions has not yet been directly addressed in reported decisions of the CCI or other competition authorities. But as AI-powered trading tools become more widely used by tea auction participants, the risk of algorithmic coordination emerging from the use of common tools or methodologies is real, and competition law practitioners advising tea companies need to be alert to this risk.

35.4 The Automated Tea Taster: Professional Law and the Displacement of Expertise

The displacement of human expertise by AI systems raises profound questions not only about labour law (which addresses the employment consequences of automation) but about professional law: the law governing the recognition, licensing, and accountability of professional expertise in regulated fields. The tea taster, while not a licensed professional in the formal sense (there is no regulatory regime in any major tea-producing country that requires tea tasters to hold a licence or professional qualification), is a recognised expert whose expertise is recognised and relied upon in commercial and regulatory contexts.

The question of what happens to this social institution of expertise when AI systems become capable of matching or exceeding human tea tasters in certain quality assessment functions is not primarily a question about whether AI can taste tea as well as humans (it can, in some dimensions, and will continue to improve). It is a question about the social and legal functions that human expertise performs in the tea industry beyond the bare function of sensory assessment. The human tea taster is a figure of trust, embodying in their person and their professional reputation the guarantee that a particular assessment is honest, competent, and accountable. The AI system is an instrument whose outputs reflect the quality of its training data, the appropriateness of its design, and the accuracy of its calibration, but which has no personal reputation to uphold and no professional accountability beyond the contractual and tortious liability of its operators.

This distinction between instrumental accuracy and accountable professional expertise is important for the law governing quality certification in the tea export context. The food safety regulations of major importing markets require that tea consignments be accompanied by quality certificates issued by accredited institutions or authorised officers. The authorisation of these institutions and officers implies a judgment about their trustworthiness, competence, and accountability. Whether an AI-generated quality assessment can substitute for a certificate issued by an accredited human taster is a question that the regulatory frameworks governing tea export

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certification have not yet addressed, and that will need to be addressed as AI quality assessment tools become more sophisticated and more widely deployed.

CHAPTER THIRTY-SIX: THE INTELLECTUAL PROPERTY OF TEA INNOVATION: PATENTS, TRADE SECRETS, AND AI-GENERATED INVENTIONS

36.1 Patent Law in the Tea Sector: The Scope and Limits of Protectable Innovation

Patent protection in the tea sector covers a wide range of innovations, from processing technologies (novel methods of fermentation, drying, or extraction), to packaging innovations (novel tea bag formats, modified atmosphere packaging techniques), to chemical innovations (novel processes for the extraction and purification of tea compounds with pharmaceutical applications), to agricultural innovations (novel pesticide application methods, novel irrigation systems, novel processing equipment), and, increasingly, to digital innovations (novel algorithms for quality assessment, novel AI-powered grading systems, novel blockchain traceability architectures).

The patentability of innovations in the tea sector is governed by the general patent law of the relevant jurisdiction. In India, the Patents Act, 1970 (as amended in 2005 to implement TRIPS obligations) provides that an invention is patentable if it is new (not anticipated by prior art), involves an inventive step (would not have been obvious to a person skilled in the relevant field), and is capable of industrial application. The exclusions from patentability include discoveries of naturally occurring substances, methods of agriculture or horticulture (a specific exclusion in the Indian Patents Act that has implications for some tea cultivation innovations), and essentially biological processes for the production of plants.

The exclusion of methods of agriculture or horticulture from patentability under Section 3(h) of the Indian Patents Act is an important boundary for tea sector innovation. Novel methods of growing tea, including novel precision irrigation techniques, novel intercropping systems, and novel pest management approaches, fall within the excluded category and cannot be patented in India. This exclusion reflects a policy judgment that innovations in agricultural methods should be available to all farmers, not monopolised by patent holders, consistent with the broader objective of ensuring food and agricultural security.

This policy rationale is sound, but the boundary between agricultural methods (excluded) and agricultural technology (potentially patentable) is not always clear. A novel automated irrigation system that incorporates both a new method of irrigation scheduling and novel hardware for implementing that method might be patent-eligible as to the hardware and software components while the underlying irrigation method remains excluded. The creative drafting of patent claims to capture the patentable elements of an agricultural innovation while avoiding the section 3(h) exclusion is an important aspect of patent legal practice in the agricultural technology sector.

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36.2 Trade Secrets in Tea Blending and Processing

Alongside patent protection, trade secret law plays an important and often underappreciated role in the protection of intellectual property in the tea sector. Trade secrets are commercially valuable information that is kept confidential and from which the owner derives competitive advantage. They may include blending formulas (the specific proportions and origins of teas used in a branded blend), proprietary quality grading criteria, supplier evaluation frameworks, processing parameters that produce distinctive flavour outcomes, and proprietary databases of customer preferences and market intelligence.

The legal protection of trade secrets in India is provided primarily by the general law of contract (through confidentiality agreements and restrictive covenants in employment contracts), the tort of breach of confidence (which protects against the unauthorised disclosure or use of confidential information), and the specific provisions of the Competition Act, 2002 dealing with the protection of confidential business information. India does not yet have a dedicated trade secrets statute, though proposals for such legislation have been discussed in the context of TRIPS implementation and the broader intellectual property modernisation agenda.

The trade secret dimension of tea blending formulas is of particular interest because it illustrates the tension between the intellectual property claims of large tea companies and the traditional knowledge claims of tea-producing communities. Major tea brands maintain proprietary blending formulas that have been developed and refined over decades, and that represent genuine innovations in the art of creating consistent, distinctive tasting profiles from variable agricultural raw materials. These formulas are legitimately protectable as trade secrets, and the companies that maintain them have made real investments in their development.

But the distinctive flavour profiles that characterise the most celebrated tea brands are not the product of the blending formula alone. They depend critically on the supply of specific categories of tea from specific origins, grown and processed in specific ways that produce the flavour characteristics required by the blender. The tea from Darjeeling's second flush, the specific cultivars grown at high altitude in the Nilgiri Hills, the particular floral notes of teas from specific estates in Sri Lanka's Nuwara Eliya district, are the biological and geographical inputs without which the blending formula is worthless. The knowledge that produces these inputs, embedded in the soil, the climate, the cultivars, and the traditional practices of tea-growing communities, is a form of intellectual contribution to the brand's value that is not recognised or compensated by the trade secret framework that protects the blending formula.

36.3 AI-Generated Innovation and the Question of Inventorship

One of the most pressing and philosophically fascinating questions in contemporary intellectual property law is the question of who owns, and who is entitled to be identified as the inventor of, an innovation that is generated by an artificial intelligence system. This question has moved from the realm of speculative legal philosophy to urgent practical necessity as AI systems, including

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large language models and generative AI tools, have demonstrated the ability to generate genuine innovations in multiple technical domains.

In the tea sector, the question of AI-generated inventorship arises most directly in the context of AI-assisted tea cultivar development, AI-driven formulation of novel processing parameters, and AI-generated blending formulas. If a research team uses a machine learning model to screen thousands of potential gene-editing targets in the tea plant genome and the AI system identifies a novel target that leads to a commercially valuable new cultivar, who is the inventor for the purposes of patent law? If an AI system generates a novel tea blending formula that produces a distinctive and commercially successful flavour profile, who owns that formula?

The current patent law frameworks of all major jurisdictions, including India, the United States, the United Kingdom, and the EU, require that inventors be natural persons (human beings). The DABUS cases, a series of patent office and court decisions in multiple jurisdictions between 2019 and 2024 arising from applications filed by the UK inventor Stephen Thaler naming the AI system "DABUS" as the sole inventor, have consistently held that an AI system cannot be named as a patent inventor because it lacks the legal personhood required for inventorship. The US Federal Circuit Court of Appeals reached this conclusion in Thaler v. Vidal (2022), affirming that "inventors must be natural persons" under the US Patent Act. UK courts reached the same conclusion in Thaler v. Comptroller-General of Patents (2023).

These decisions resolve the narrow question of AI inventorship under existing law, but they leave open the deeper policy question of how patent law should adapt to a world in which AI systems make substantial creative contributions to the development of technically valuable innovations. If AI generates the core inventive concept and a human researcher merely validates, implements, or refines it, is it appropriate for the human to receive the full benefit of patent protection for an innovation they did not primarily create? If the answer is yes, the result may be that the development and deployment of AI innovation tools becomes a means of generating patent portfolios at unprecedented scale and speed, concentrating innovative capacity in the hands of those who can afford to develop and operate sophisticated AI systems.

For the tea sector specifically, the implications of AI-generated innovation are particularly significant in the domain of cultivar development. The breeding of new tea cultivars through conventional methods is a slow process, typically requiring a decade or more from initial crossing to the release of a commercially viable variety. AI-assisted genomic analysis and gene editing could dramatically accelerate this timeline. But if the resulting varieties are patentable, and if the patent rights vest in the companies that develop and operate the AI breeding tools, the consequence could be an acceleration of the concentration of plant breeding innovation in large agricultural biotechnology corporations at the expense of the public sector tea research institutions (like Tocklai in India and the Tea Research Institute in Sri Lanka) that have historically served the interests of smallholder farmers and estate workers rather than the interests of commercial shareholders.

36.4 The Nagoya Protocol and Benefit Sharing from Tea Genetic Resources

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The intellectual property questions raised by tea biotechnology innovation cannot be fully understood without situating them within the framework of the Convention on Biological Diversity (CBD) and its supplementary Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization.

The CBD, adopted in 1992 and now ratified by virtually all countries other than the United States, establishes three core principles: the conservation of biological diversity, the sustainable use of biological resources, and the fair and equitable sharing of benefits arising from the utilisation of genetic resources. The Nagoya Protocol, adopted in 2010 and entering into force in 2014, operationalises the benefit-sharing principle by establishing a framework for prior informed consent and mutually agreed terms for access to genetic resources and for the sharing of benefits derived from their use.

For the tea sector, the Nagoya Protocol's framework has important implications for research programmes that access and use the genetic diversity of wild or landrace tea varieties conserved in the countries of origin. The genetic resources of tea, including the vast diversity of wild Camellia sinensis and related species in the forests of Yunnan Province and the Assam-Burma border region, and the diversity of traditional cultivars maintained by farming communities in India, China, Kenya, and elsewhere, are subject to the sovereign rights of the countries of origin under the CBD. Any company or research institution that accesses these genetic resources for research and development purposes, including biotechnology research aimed at developing new tea varieties, must in principle obtain prior informed consent from the relevant national authority and agree to terms for benefit sharing with the country and communities of origin.

The implementation of Nagoya Protocol obligations in the tea sector has been uneven. India's Biological Diversity Act, 2002 and the Biodiversity Rules, 2004 provide the domestic legal framework for access and benefit sharing. The National Biodiversity Authority (NBA) is responsible for approving access to biological resources and associated knowledge for research and commercialisation, and the State Biodiversity Boards (SBBs) are responsible for overseeing access at the state level. The NBA has been developing regulations specifically addressing access to tea genetic resources, recognising the particular importance and complexity of this sector.

The practical challenge in implementing Nagoya Protocol compliance in the tea biotechnology context is the difficulty of identifying the specific communities whose traditional knowledge and conservation practices contributed to the genetic resources accessed, and of designing benefit-sharing arrangements that actually reach those communities rather than being absorbed by national governments or institutional intermediaries. This challenge is compounded in the tea sector by the colonial history of seed and germplasm collection, which resulted in large quantities of tea plant genetic resources being held in ex situ collections in the United Kingdom, the Netherlands, and other former colonial powers, often with incomplete documentation of provenance and without any historical benefit-sharing arrangements.

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CHAPTER THIRTY-SEVEN: ROBOTICS, AUTOMATION, AND THE FUTURE OF TEA LABOUR: LEGAL DIMENSIONS OF A STRUCTURAL TRANSITION

37.1 The Automation of Tea Harvesting: Technology, Economics, and Law

The most economically consequential technology development in the tea sector in the coming decade is likely to be the progressive automation of the tea plucking operation. Plucking is the most labour-intensive and labour-costly operation in the tea production system, accounting for between sixty and seventy percent of total production costs in most South Asian and East African estate contexts. It is also the operation most directly dependent on the availability and cost of low-wage agricultural labour, and the operation that has been most resistant to technological substitution because of the selectivity and delicacy required to pluck the two leaves and a bud without damaging the bush or including undesirable older leaf.

The development of mechanical tea harvesting machines has a history extending back several decades, and mechanical harvesters have been used in flat-terrain, lower-quality tea production in Japan, Australia, and some parts of China for many years. But for the selective, quality-sensitive harvesting required for orthodox and premium tea production, and for the steep terrain of Darjeeling, the Nilgiris, or the Kenya highlands, mechanical harvesting has historically been impractical. The combination of terrain, crop architecture, the variability of shoot development timing across a bush, and the premium on selectivity in harvest has made hand plucking the only viable method for premium tea production.

This constraint is now beginning to loosen as a result of advances in robotic harvesting technology. Research teams in China, Japan, and increasingly India have developed robotic tea-plucking systems that use computer vision to identify pluckable shoots, robotic arms to grasp and pluck them, and deep learning algorithms to continuously improve the selectivity and speed of the robotic picking. Multimodal fusion techniques that combine RGB and depth imaging improve tea shoot detection by enhancing image contrast in low-light environments, while early yield estimation models using YOLOv8 and YOLOv5 have demonstrated strong correlations between detected and actual shoot counts, improving harvest planning and labour management. Hep

The current state of robotic tea harvesting technology is that it can achieve selectivity and speed adequate for mid-quality CTC tea production in favourable terrain conditions, but remains inferior to skilled human pluckers for the premium orthodox production that requires the most selective two-leaves-and-a-bud harvest. However, the trajectory of improvement in robotic harvesting technology, driven by advances in computer vision, machine learning, and soft robotics, suggests that this gap will narrow significantly over the coming decade.

37.2 The Legal Framework for Automation and Technological Unemployment

The progressive automation of tea harvesting, even if it proceeds at a modest pace, has the potential to displace a significant proportion of the estimated 2.5 to 3 million workers currently

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employed in tea plucking in South Asia and East Africa. The legal framework governing the relationship between automation and employment is one of the most contested areas of labour law, and the tea sector faces its specific challenges in this context.

In India, the question of retrenchment (the termination of employment consequent upon the cessation of a worker's work) in the context of technological change is addressed primarily by the Industrial Relations Code, 2020, which is the successor to the Industrial Disputes Act, 1947 in this domain. The Industrial Relations Code requires, for establishments employing above a specified threshold, that retrenchment be preceded by one month's notice to the competent authority (the appropriate government or an authority designated by it), and that retrenched workers receive retrenchment compensation of fifteen days' wages for each completed year of service.

The retrenchment framework, while providing some financial protection to workers displaced by technological change, has significant limitations. The compensation formula (fifteen days' wages per year of service) is unlikely to be adequate for workers who have spent decades employed in the plantation and have limited skills or opportunities for alternative employment. The notification requirement is procedural rather than substantive: the government authority notified of the proposed retrenchment has limited power to prevent it if the retrenchment is genuinely attributable to the introduction of machinery or new technology rather than to a contraction of demand.

The question of whether workers have any substantive right to be protected against displacement by automation, as distinct from the procedural rights and compensation entitlements that the retrenchment framework provides, has been the subject of significant jurisprudential debate. The constitutional dimension of this question engages the right to livelihood recognised in Olga Tellis and subsequent cases, the directive principles of state policy on securing workers' right to work and to adequate means of livelihood (Articles 41 and 43 of the Constitution), and the obligation of the state to make effective provision for securing the right to work in the event of undeserved want (Article 41).

The deployment of robotic tea harvesting in the Indian plantation context would require the employer, at a minimum, to comply with the retrenchment notice and compensation requirements of the Industrial Relations Code. It would also require, in estates where workers are organised in trade unions, negotiation with the unions about the pace of automation, the terms of retraining programmes, and the conditions under which retrenched workers might have preferential access to other employment opportunities within the estate or in allied activities. The collective bargaining dimension of automation in the tea sector is an area where the strength of workers' organisations will be a critical determinant of whether the gains from productivity improvement are shared with workers or captured entirely by the estate owner.

37.3 Reskilling, Retraining, and the Legal Obligations of Employers

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The standard response to technological unemployment in contemporary labour policy discourse is reskilling and retraining: the expectation that workers displaced from declining activities will be retrained for emerging activities, whether within the same industry or in new sectors. For tea plantation workers, the reskilling agenda faces particularly challenging conditions. Workers who have spent their lives plucking tea typically have limited formal education (many are illiterate or semi-literate, particularly among older cohorts and among women), limited mobility (they live in tied housing on the estate), and limited access to external training institutions (the estates are geographically remote from urban vocational training infrastructure).

The legal obligation of employers to provide retraining for workers displaced by automation is not explicitly addressed in the current Indian labour law framework. The Industrial Relations Code creates obligations regarding retrenchment procedures and compensation but does not impose a duty on employers to retrain workers before retrenchment or to make reasonable adjustments to enable displaced workers to perform other available roles. This gap in the legal framework represents a significant inadequacy from the perspective of workers' rights and the state's developmental objectives in relation to the tea-growing communities.

The Assam government's budget proposals for 2025-26, which included provisions for model tea garden schools and vocational training programmes, represent a state-level initiative to develop the educational and skills infrastructure of plantation communities that could support a broader reskilling agenda. The legal framework for these initiatives, and the accountability mechanisms that would ensure their effective implementation, are as important as the funding commitments.

37.4 Universal Basic Income Proposals and Their Relevance to Tea Worker Displacement

The prospect of significant technological unemployment in the tea sector, combined with the deep structural poverty and vulnerability of tea plantation communities, has prompted some advocates and policy thinkers to raise the question of universal basic income (UBI) as a policy response. A UBI, a regular unconditional cash transfer to all residents above a specified age, would provide a minimum income floor to displaced workers regardless of their employment status, enabling a more gradual and less traumatic adjustment to technological change.

The jurisprudential basis for UBI in the Indian constitutional context connects to the right to life and the right to livelihood recognised in the Puttaswamy and Olga Tellis lines of authority. If the state has a constitutional obligation to ensure that all citizens have access to an adequate livelihood, and if technological change in agriculture threatens to undermine the existing livelihoods of millions of plantation workers, a UBI could be conceptualised as a constitutional obligation rather than merely a policy choice.

Pilots of direct cash transfer programmes in the tea plantation context have been conducted in several states. The Assam government's announcement in its 2025-26 budget of a Rs. 5,000 one-time cash transfer to approximately 6.8 lakh tea garden workers, both casual and permanent, represents a step toward direct income support to tea plantation communities, though its one-time character distinguishes it from the regular unconditional transfers that the UBI concept envisions.

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CHAPTER THIRTY-EIGHT: ENVIRONMENTAL TECHNOLOGY LAW IN THE TEA SECTOR: CLIMATE MONITORING, CARBON MARKETS, AND SUSTAINABLE AGRICULTURE REGULATION

38.1 Environmental Technology in Tea: IoT, Remote Sensing, and Regulatory Compliance

The legal obligation of tea estates and processing facilities to comply with environmental standards, including those governing water use, pesticide runoff, waste management, and energy consumption, is increasingly being monitored and enforced through digital technology. IoT (Internet of Things) sensors monitoring soil moisture, water flow, chemical concentrations in runoff, and air quality emissions from processing facilities are becoming part of the environmental compliance infrastructure of the tea sector, both as tools deployed voluntarily by progressive operators and as requirements of regulatory authorities and certification schemes.

The legal implications of IoT-based environmental monitoring for the tea sector are significant at multiple levels. At the regulatory compliance level, environmental monitoring data generated by IoT systems may be required to be reported to environmental authorities and may serve as evidence in enforcement proceedings. If the monitoring system detects a violation, such as a discharge of pesticide-laden runoff above permitted levels, the data may be used by the regulatory authority as the primary basis for an enforcement action. The reliability, calibration, and security of the monitoring system therefore become legally important: an enforcement action based on data from a system that was malfunctioning, uncalibrated, or hacked would be challengeable on evidential grounds.

At the certification level, IoT monitoring data is increasingly being used by sustainability certification schemes to verify compliance with environmental standards without the need for periodic on-site audits, which are expensive and can only sample a small proportion of the time period during which compliance is expected. Continuous IoT monitoring provides much more comprehensive evidence of compliance than periodic auditing, and is therefore an attractive tool for certification bodies seeking to strengthen the credibility of their schemes. However, it also raises questions about the security of the monitoring system against tampering by operators seeking to disguise non-compliance.

38.2 Carbon Markets and Tea: The Legal Framework for Carbon Credit Generation and Trading

Carbon markets, in which entities that reduce greenhouse gas emissions below a specified baseline can generate carbon credits that can be sold to entities that are required to purchase offsets for their own emissions, represent an emerging source of revenue for tea estates that adopt farming practices that sequester carbon in soil and biomass or reduce emissions from production processes.

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The legal framework governing carbon credit generation in the agricultural sector is complex and varies significantly between the voluntary carbon market (VCM) and compliance carbon markets (where participation is required by regulation). In the voluntary carbon market, carbon credits are generated against specific standards (such as the Verified Carbon Standard, now known as Verra, or the Gold Standard), verified by accredited third-party auditors, and traded between willing buyers and sellers. In compliance markets, such as the EU Emissions Trading System (ETS) or national emissions trading schemes, the rules for what counts as an eligible carbon reduction, how it is measured, and how credits are allocated are determined by public regulatory frameworks.

Agricultural carbon credits, including those potentially generatable from tea estate practices such as agroforestry (integrating shade trees into tea cultivation), cover cropping, reduced tillage, and optimised fertiliser management, are primarily a voluntary carbon market phenomenon at present. The legal questions that arise in relation to agricultural carbon credit generation include the accuracy and permanence of the carbon accounting methodology (will the claimed carbon sequestration actually persist, or might it be reversed by drought, disease, or land use change?), the property rights in the carbon credits generated (does the credit belong to the estate owner, the operator, the certification body, or some combination?), and the risk allocation in the event that sequestered carbon is released, triggering a reversal of previously issued credits.

For smallholder tea farmers specifically, carbon markets present an interesting potential income diversification opportunity but also significant practical barriers. The transaction costs of registering, monitoring, and verifying carbon credits under established voluntary market standards are substantial, and are generally prohibitive for individual smallholder farmers. Group certification approaches, analogous to the group organic certification model, offer a potential pathway to smallholder participation in carbon markets, but require the development of robust internal governance and monitoring systems at the cooperative or association level.

CHAPTER THIRTY-NINE: LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT IN TECHNOLOGY LAW FOR THE TEA SECTOR

39.1 The Knowledge Gap: Legal Practice and Technological Competence

The rapid deployment of digital technologies in the tea sector is creating a significant and widening knowledge gap between the technologies being deployed and the legal practitioners, regulators, and labour rights advocates who are supposed to govern and protect against their adverse consequences. Lawyers advising tea companies need to understand enough about drone regulation, biometric data law, AI liability, carbon market legal frameworks, and CRISPR patent landscapes to provide useful counsel. Labour rights advocates working in the plantation sector need to understand enough about digital surveillance technologies to identify and challenge abuses. Regulators need to understand enough about algorithmic wage calculation systems to design and enforce effective oversight.

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This knowledge gap is not a new phenomenon: lawyers and regulators have always faced the challenge of keeping up with technological change. But the pace and depth of the digital transformation of agriculture, and the wide range of legal disciplines it implicates, make the knowledge gap in the tea technology law field particularly acute. The traditional generalist legal education, which provides a broad foundation in doctrinal law without specific attention to agricultural technology or digital systems, produces graduates who are ill-equipped to advise clients facing the specific legal challenges of precision agriculture, digital labour management, or AI quality assessment.

The development of specialised legal education in technology law as it applies to agriculture and specifically to the tea sector requires investment at multiple levels. At the undergraduate and postgraduate legal education level, it requires the development of courses that combine legal doctrine with a genuine understanding of the technologies to which the law applies, taught by faculty with expertise in both law and technology. At the professional development level, it requires continuing legal education programmes that enable practising lawyers to develop specific expertise in areas like drone regulation, data protection in agricultural settings, AI liability, and carbon market law. At the regulatory capacity level, it requires training programmes for plantation labour inspectors, environmental officers, and food safety regulators that develop their understanding of the technologies they are supposed to oversee.

39.2 The Role of Legal Technology in Tea Law Practice

Legal technology, including AI-powered legal research tools, document review software, contract analysis platforms, and regulatory compliance monitoring systems, has the potential to significantly enhance the quality and efficiency of legal practice in the tea sector. AI-powered legal research tools can help practitioners in remote plantation areas identify relevant case law, statutory provisions, and regulatory guidance that would be difficult or impossible to locate using traditional research methods. Document review software can accelerate the review of large volumes of supplier contracts, employment records, and environmental compliance documentation in due diligence exercises. Contract analysis platforms can flag unusual or potentially problematic provisions in tea trading contracts and supply agreements.

But the adoption of legal technology in the tea law practice context faces specific challenges. The specialised nature of tea law, which combines multiple legal disciplines applied to a highly specific industrial and social context, means that general-purpose legal AI tools may not provide adequate support without specific fine-tuning on tea-sector legal materials. The relatively small size of the tea law community in most jurisdictions means that the commercial case for developing highly specialised tea law AI tools may not be compelling for technology developers. And the resource constraints of legal practices serving smallholder farmers, workers, and trade unions in remote plantation areas may preclude the adoption of sophisticated legal technology even where it would be beneficial.

The development of open-source, publicly funded legal technology tools specifically designed for agricultural and plantation law practice in developing countries is an area where development

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organisations, law school clinics, and public sector legal services authorities could make a significant contribution.

CONCLUSION TO PART FOUR: TECHNOLOGY, LAW, AND THE JUSTICE OF INNOVATION IN THE TEA SECTOR

The technological transformation of the tea sector is simultaneously an opportunity and a threat, and the law's role is to maximise the former while minimising the latter. The precision agriculture technologies that promise significant yield improvements and resource efficiency gains can also create new forms of data asymmetry and algorithmic control that disadvantage smallholder farmers. The biotechnology innovations that could produce climate-resilient, pest-resistant tea varieties could also concentrate the intellectual property of those innovations in the hands of large corporations, creating new dependencies for farmers and workers. The digital labour management systems that could reduce arbitrary and discriminatory treatment of workers could also create pervasive surveillance infrastructures that undermine workers' dignity and collective autonomy. The AI quality assessment tools that could produce more consistent and verifiable quality grades could also displace the human expertise of tea tasters without adequate accountability frameworks for the AI systems that replace them.

The jurisprudential thread that runs through all of these tensions is the question of how the law should distribute the gains and the burdens of technological change. The utilitarian calculus of aggregate welfare, associated with Bentham and Mill, would justify innovation that produces net benefits even if some individuals are made worse off, provided that the aggregate gains are sufficient. But utilitarian analysis, as Rawls demonstrated in "A Theory of Justice," does not adequately protect the interests of the least advantaged, because it permits the concentration of gains at the top of the distribution as long as the aggregate sum is maximised. A Rawlsian approach to the distribution of innovation gains in the tea sector would require that the gains be structured to benefit the least advantaged participants, primarily the plantation workers and smallholder farmers, rather than the estate owners, technology companies, and shareholders who currently capture the largest share of the economic surplus generated by the industry.

Sen's capabilities approach offers a complementary framework, focusing the analysis on whether the technological transformation expands or contracts the real freedoms of tea sector participants to lead flourishing lives. AI-powered pest detection that helps a smallholder farmer protect their crop without expensive pesticides expands capabilities. Biometric surveillance that enables the employer to maintain pervasive control over a worker's every movement contracts capabilities. The law's task, guided by these philosophical frameworks, is to design regulatory environments that maximise capability-expanding technologies and constrain capability-contracting ones.

The challenge noted in AI agricultural statistics of 2025 is that bridging infrastructure and knowledge gaps is crucial to ensure equitable benefits for all, regardless of farm size or location. Farmonaut® This challenge is not merely technical. It is profoundly legal and political,

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involving decisions about who bears the costs of infrastructure development, who owns the intellectual property in the technologies that create the knowledge, and who governs the platforms through which AI advisory services are delivered. The law of the twenty-first century tea sector must grapple with these questions with the same analytical rigour and normative commitment to justice that this textbook has brought to the historical and commercial law questions examined in the preceding parts.

Part Five of this textbook will turn to the future of tea law as an integrated field of legal practice, scholarship, and policy: the frameworks for legal reform, the role of international institutions, the design of legal aid and access to justice systems for tea-sector communities, and the agenda for a jurisprudence of tea law adequate to the challenges of the twenty-first century.

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End of Part Four

Part Five: The Future of Tea Law: Reform Agendas, International Frameworks, Access to Justice, and the Jurisprudence of a Just Tea Economy will follow.

PART FIVE: THE FUTURE OF TEA LAW: REFORM AGENDAS, INTERNATIONAL FRAMEWORKS, ACCESS TO JUSTICE, AND THE JURISPRUDENCE OF A JUST TEA ECONOMY

FOREWORD TO PART FIVE

The chapters that have preceded this final part of the textbook have taken the reader on a long journey. We began in the colonial plantations of Assam, where the law was a weapon of extraction. We moved through the post-independence frameworks of plantation labour protection, the international trade law that structures the market for tea, the environmental law that governs the ecological footprint of tea cultivation, and the frontier technologies that are reshaping the production, assessment, and trading of tea in the twenty-first century. We have examined the law as it is, the history that explains why it is that way, and the philosophical traditions that tell us what the law ought to be.

Part Five is concerned with the future. But it is not a naive future, filled with optimism that the merely technical task of drafting better laws will be sufficient to produce justice in the tea sector. It is a future viewed with clear eyes, informed by the analytical framework this textbook has developed and by the latest developments in international and domestic legal scholarship and practice as of 2025 and 2026. The future of tea law is contested. It is politically charged. It involves fundamental disagreements about the distribution of power, wealth, and risk in one of the world's oldest and most culturally significant agricultural industries.

This final part is structured around six great themes. The first is the reform agenda for tea labour law, examined at both the domestic and international level, with particular attention to the transformative legislation of 2025 in India, including the consolidation of the labour codes and the Assam land patta reform, and to the international supply chain due diligence frameworks that are reshaping the legal obligations of global tea companies. The second is the architecture of international governance for the tea sector, including the roles of the International Labour Organization, the World Trade Organization, the Food and Agriculture Organization, and the

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emerging body of international investment law that impinges upon tea-producing countries. The third is access to justice, perhaps the most neglected and the most critical dimension of tea law, encompassing the design of legal aid systems, the role of law school clinics, the use of technology in legal service delivery, and the practical pathways through which the tea worker, the smallholder farmer, and the indigenous community can actually invoke and exercise the rights that the law nominally grants them. The fourth is gender justice in the tea sector, an area of explosive importance both empirically (women constitute the majority of the tea plucking workforce in most producing countries) and normatively (the intersection of gender, caste, ethnicity, and labour in the plantation context creates some of the deepest and most persistent forms of structural injustice in the global labour market). The fifth is the constitutional and philosophical foundations of a just tea law, drawing together the threads of jurisprudential analysis that have run through the entire textbook to articulate a coherent normative framework adequate to the challenges of the twenty-first century. The sixth and final theme is the future of tea law as a discipline, addressing the question of how legal education, legal scholarship, and legal institutions must evolve to meet the demands of this complex and rapidly changing field.

This Part is, in a sense, both a conclusion and a beginning. It concludes the arguments of the textbook. But it also marks the beginning of a conversation that this text hopes to catalyse, a sustained, philosophically serious, practically grounded, and politically honest conversation about what the law must do to honour its deepest commitments to justice in the world of tea.

CHAPTER FORTY: THE REFORM AGENDA FOR TEA LABOUR LAW: DOMESTIC TRANSFORMATION AND INTERNATIONAL PRESSURE

40.1 The State of Tea Labour Law at the Dawn of 2026

At the beginning of 2026, the legal landscape governing tea labour in the major producing countries is in a state of active transformation, under simultaneous pressure from multiple directions. From within producing countries, the politics of labour reform are generating legislation that is ambitious in its stated objectives but deeply contested in its implementation. From outside, the frameworks of international supply chain due diligence law being developed in the European Union and other importing markets are creating legal obligations for tea companies that reach back through global supply chains and impose new requirements on how labour is managed on the tea estates of Asia and Africa. And from the workers themselves, organised and unorganised, a growing insistence on dignity, fair wages, land rights, and social security is testing the limits of legal frameworks that were not designed to accommodate those demands.

The consolidation of India's twenty-nine central labour laws into four codes, namely the Code on Wages 2019, the Industrial Relations Code 2020, the Code on Social Security 2020, and the Occupational Safety, Health and Working Conditions Code 2020, is the most significant structural transformation of Indian labour law since independence. As of November 2025, these codes have been implemented, marking a watershed moment in Indian labour governance. For

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the tea sector specifically, the codes bring significant changes to the framework governing plantation workers, both in terms of the substantive rights they enshrine and in terms of the administrative and enforcement architecture through which those rights are to be realised.

The Occupational Safety, Health and Working Conditions Code subsumes the Plantation Labour Act 1951, the foundational statute of tea labour law in India, into a broader framework governing occupational safety and health across all sectors. This subsumption was a matter of intense controversy during the legislative process, and it remains controversial in implementation. The argument in favour of subsumption was that it would create a unified and coherent framework applicable across industries, eliminating the sectoral fragmentation that had allowed plantation workers to be treated as a special category, often in ways that disadvantaged them relative to workers in other sectors. The argument against subsumption was precisely the opposite: that the plantation sector has unique characteristics, in particular the provision of tied housing, food rations, healthcare, and education by the employer as components of the wage package, that require specialised legislative treatment that a general occupational safety and health framework cannot adequately provide.

The tension between these positions reflects a deeper jurisprudential disagreement about the proper relationship between universality and particularity in labour law. The universalist position, associated in the labour law literature with the work of Alain Supiot and the ILO's Decent Work agenda, holds that all workers, regardless of the sector in which they labour, are entitled to the same basic protections rooted in the universal dignity of the human person. The particularist position, associated with the tradition of sector-specific labour law that has characterised Indian industrial relations since independence, holds that the effective protection of workers requires legal frameworks sensitive to the specific power structures, dependencies, and vulnerabilities of particular industries and sectors.

Both positions have genuine merit. The universalist is right that sector-specific frameworks can, and in the tea sector have, been used to create a separate and inferior tier of labour protection under the guise of acknowledging the industry's special characteristics. The colonial logic of treating in-kind welfare provision as a substitute for adequate cash wages, a logic that survives in modified form in the current framework, is precisely the kind of particularist reasoning that perpetuates rather than remedies structural disadvantage. But the particularist is also right that the plantation's unique social geography, the totality of the employer's control over the worker's physical environment, calls for regulatory responses that general frameworks designed for the urban factory may not provide.

The resolution of this tension in the new codes is imperfect. The OSHWC Code preserves specific provisions for plantation workers within its general framework, including requirements for housing, medical facilities, crèches, canteens, and other welfare amenities that were formerly contained in the Plantation Labour Act. But it also introduces general thresholds and coverage criteria that may exclude some categories of plantation workers, particularly those working on smaller holdings or on a casual or temporary basis, from the full scope of protection. The specific provisions for smallholder tea farmers, who constitute more than fifty percent of India's tea

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production workforce, remain inadequate, as the codes largely follow the pre-existing pattern of applying labour law primarily to the employer-employee relationship on organised estates rather than to the more complex and legally ambiguous relationships between smallholder farmers and the companies to which they sell their green leaf.

40.2 The Assam Land Patta Reform of 2025: A Jurisprudential Assessment

The passage of the Assam Fixation of Ceiling on Land Holdings (Amendment) Act 2025 in the winter session of the Assam Legislative Assembly represents one of the most politically significant and jurisprudentially complex developments in the history of Indian tea law. The Act, which inserts a new Section 7A providing for the settlement of labour line lands to tea garden workers, was enacted with considerable political fanfare. Chief Minister Himanta Biswa Sarma described it as a historic moment for the welfare of the tea community, and the occasion was marked by the declaration of a holiday across tea plantations so that workers could watch the legislative proceedings. The government's announcement that the reform would benefit approximately 3.30 lakh families of Assam's tea community was widely celebrated.

A careful jurisprudential reading of the Act, however, reveals a reform that is considerably more ambiguous in its legal content than its political presentation suggests. The first and most fundamental problem is the complete absence of any specification of the quantum of land to be settled upon each worker family. The Act provides, in sub-section 4 and 5 of the newly inserted Section 17A, that the government may by notification frame conditions regarding the extent of disposal of such lands, and that the extent of land per family shall be as notified by the government from time to time. This language transforms what appears to be a statutory entitlement into a discretionary government grant. A statutory right to land of an unspecified extent, to be determined by executive notification at an unspecified future date, is not a right at all in the substantively meaningful sense that justice requires. It is a political commitment dressed in legal language.

The second problem, identified by critical commentators including the analysis published in Northeast Now in December 2025, is the complete exclusion of trade unions from the legislative drafting process. The Plantation Labour Act 1951 and the industrial relations framework that governed tea estates for decades were products, however imperfect, of a tripartite structure that nominally gave workers' organisations a seat at the table alongside government and employers. The Assam Amendment Act 2025 was drafted and enacted without any formal tripartite consultation. This procedural failing is not merely a technical deficiency. It reflects a pattern in which the state presents itself as the benevolent patron of tea workers, granting them rights as a gift of governance, rather than recognising workers as rights-bearing agents who are entitled to participate in the legal processes through which their rights are defined. The paternalistic structure of the reform mirrors, in this respect, the colonial paternalism of the plantation system itself: the powerful party determines what is good for the less powerful party, and the less powerful party is expected to receive the determination with gratitude.

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The third problem, raised by industry commentators and legal analysts writing in East Mojo in February 2026, concerns the potential unravelling of the welfare infrastructure that the Plantation Labour Act requires estates to maintain. Under the PLA framework, the estate owner is legally obligated to provide housing, medical facilities, crèches, and other welfare amenities to the workers who are resident on the estate. The transfer of land title to workers, while welcome in principle as a recognition of their right not to be treated as mere appendages of the productive enterprise, creates legal ambiguity about the continuation of these obligations. If workers hold title to their residential plots, the employer's PLA obligation to provide and maintain housing on those plots may be argued to have ceased. If the estate is no longer legally responsible for maintaining the housing infrastructure of the labour lines, and if the newly titled landowners lack the financial resources to maintain that infrastructure themselves, the reform could in practice lead to a deterioration in housing standards under the guise of promoting ownership rights.

These problems do not mean that the Assam land reform is without value. The recognition, however limited and conditional, that tea plantation workers have a right to legal security of tenure in the land on which they and their families have lived for generations is a normatively important development. It represents an acknowledgment that the plantation worker is not a mobile unit of labour to be housed, fed, and moved as the productive enterprise requires, but a person with a home, a community, and a claim on the land that is grounded in the deep human need for a stable place in the world. The philosopher Hannah Arendt, writing about the right to have rights in her analysis of statelessness in "The Origins of Totalitarianism" (1951), articulated the foundational importance of belonging to a political community that recognises one's standing as a rights-bearing member. The tea workers of Assam, living on land they do not own in houses owned by the company, have been in a condition structurally analogous to the statelessness Arendt described: present in a legal community but not fully belonging to it. The land patta reform, even in its imperfect form, is a step toward belonging.

The jurisprudential task, going forward, is to hold the state to its commitment and to insist that the reform be implemented in a manner that gives the statutory entitlement substantive content. This means, at minimum, legislating a specific minimum quantum of land to be settled per family rather than leaving it to executive discretion, establishing a clear timeline and process for the settlement of titles, ensuring that the transfer of land title is accompanied by a clear framework for the continuation of the employer's welfare obligations during and after the transition, and creating enforceable mechanisms through which workers can challenge inadequate or discriminatory implementation. The Gauhati High Court and the Supreme Court's expanded understanding of the right to livelihood and dignified conditions of life, developed in the lines of cases discussed in earlier parts of this textbook, provide the constitutional basis for judicial review of executive action that falls short of what the statutory and constitutional framework demands.

40.3 Wages, Gender, and the Persistence of Structural Poverty

The wage dimension of tea labour law is perhaps the most viscerally illustrative of the gap between formal legal protection and substantive justice. As of 2024 and 2025, daily wages for

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tea plantation workers in Assam are approximately 232 rupees for permanent workers, rising to 250 rupees in state-run gardens following a wage revision announced by the Assam government in May 2025 effective from October of that year. In West Bengal, the figure is approximately 250 rupees per day for permanent workers. These figures represent some of the lowest wages in the organised sector of the Indian economy, significantly below the statutory minimum wages applicable to comparable categories of agricultural or unskilled labour in both states.

The persistence of below-minimum wages in a sector legally covered by minimum wage legislation requires an explanation, and that explanation lies in the structure of the plantation wage system rather than in any mere failure of enforcement. The plantation wage system was designed, and has been perpetuated, on the premise that the cash component of the worker's wage is supplemented by in-kind benefits: housing, food rations, medical care, and schooling provided by the estate. Under this logic, the cash wage need not be sufficient to sustain life, because the estate provides the means of sustaining life in kind. The legal framework, including the Plantation Labour Act and its successor provisions, has accepted this logic by treating the in-kind component as a legitimate part of the wage package for the purposes of assessing compliance with minimum wage obligations.

The philosophical and legal critique of this arrangement is fundamental. It treats human labour as a commodity that can be remunerated partly in services provided by the buyer of that labour, rather than as the exercise of personal agency that must be remunerated in a way that preserves the worker's autonomy and freedom of choice. John Stuart Mill, in "Principles of Political Economy" (1848), recognised that the payment of wages in kind, or the truck system, was an instrument of employer domination that undermined the market freedom that liberal economic theory was supposed to guarantee. The Truck Acts in Victorian Britain, which progressively prohibited payment of wages in anything other than coin of the realm, were a legislative response to this recognition. The Indian plantation wage system, with its permitted in-kind component, represents a persistence of the truck principle in a form that liberal labour law in other contexts long ago condemned.

Women workers in the tea sector experience the inadequacy of the wage system with particular acuity and in particularly acute ways. Women constitute between fifty and sixty percent of the tea workforce in Assam, and approximately eighty percent of those engaged in the crucial operation of tea plucking. Yet women in Assam's tea sector typically earn between thirty and forty percent less than men, work eight to ten hours daily with limited rest breaks, and are disproportionately concentrated in the temporary and casual employment categories that provide no access to the PLA's welfare provisions, no job security, and no social security entitlements. As the Ethical Tea Partnership's 2025 country report on India documents, women hold less than five percent of supervisory roles in the tea sector and have minimal representation in trade union leadership, severely limiting their ability to influence the collective bargaining processes through which wages and conditions are set.

This gendered dimension of tea labour law cannot be adequately addressed by wage law alone. It requires an intersectional analysis, which is to say an analysis that recognises the way in which

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gender interacts with caste, ethnicity, and employment status to produce compounded disadvantages that no single-axis legal intervention can adequately address. The tea workers of Assam's estates are predominantly from Scheduled Tribe and Scheduled Caste communities whose ancestors were brought to Assam as indentured migrants from Bihar, Jharkhand, Odisha, and Madhya Pradesh. Within these communities, women are subject to gender hierarchies that replicate at the community level the hierarchies of power that the plantation system imposes at the institutional level. A wage law that provides equal pay for equal work (which is itself inadequately implemented in the sector) does not address the fact that the work itself is distributed on gendered lines, with women confined to plucking and men advancing to supervisory and processing roles, so that formally equal treatment of formally equal work reinforces rather than challenges the substantive inequality of gender-differentiated job allocation.

The legal framework needed to address intersectional inequality in the tea sector requires a combination of instruments. It requires equal pay legislation that is genuinely enforced, including mechanisms for detecting and remedying pay discrimination that is embedded in occupational segregation rather than simply in differential pay rates for the same job. It requires affirmative action in supervisory and managerial roles, giving formal legal backing to the objectives that international certification schemes have pursued through private ordering. It requires legal protections for temporary and casual workers that are genuinely co-extensive with those available to permanent workers, since the concentration of women in temporary employment is the primary mechanism through which gender inequality is legally laundered as an employment status distinction rather than a sex discrimination. And it requires the dismantling of the legal infrastructure that makes women economically dependent on their husbands or male relatives within the plantation household, which means in particular ensuring that land titles and social security entitlements are registered in women's names, not simply in the name of the male household head.

40.4 The International Labour Codes and Their Plantation Implications

The consolidation of India's labour laws into four codes marks a moment of significant restructuring that raises critical questions about who benefits and who loses from the rationalisation of a framework that was, despite its many inadequacies, familiar to the workers, unions, and practitioners who had navigated it over decades. The critical debate about the new codes in the plantation labour context centres on three principal concerns.

The first concern is the change in the definition and scope of the covered workforce. The new codes use threshold-based coverage criteria, in some cases applicable to establishments employing above a specified number of workers, that may exclude smaller tea holdings from certain protections. The precise interaction between the codes' threshold provisions and the specific coverage of the former Plantation Labour Act, which applied to all tea plantations above five hectares regardless of the number of workers employed, has been a subject of considerable legal uncertainty in the immediate post-implementation period.

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The second concern is the change in the enforcement architecture. The new codes reduce the number of inspections and inspection authorities that tea estates face, and introduce a system of self-certification and online compliance reporting that places greater reliance on employer-reported data rather than independent inspection. In a sector characterised by persistent under-reporting of violations, the weakening of the inspection regime risks reducing rather than enhancing the effective protection of workers' rights. The plantation labour departments that have historically been the frontline enforcement institutions for the Plantation Labour Act are being restructured into a unified labour enforcement framework, with uncertain implications for the specialist knowledge of plantation conditions that effective enforcement of the PLA's welfare provisions requires.

The third concern, perhaps the most profound from a jurisprudential perspective, is the fate of the concept of the welfare state employer, which was embedded in the PLA's framework of mandatory welfare provision, in the new codes' more employer-autonomy-oriented approach. The PLA imposed specific and non-negotiable obligations on tea estate owners to provide housing, medical facilities, crèches, canteens, educational facilities, and recreational facilities. These obligations were not conditional on the employer's financial capacity or on negotiation with workers: they were absolute legal duties imposed in recognition of the plantation's special social character as a self-contained community in which the employer is the provider of all public goods. The new codes provide for many of the same welfare amenities, but their enforcement is folded into a general occupational safety and health framework that treats these amenities as matters of workplace management rather than as constitutive elements of a social contract between the plantation enterprise and the communities it houses.

This is not a trivial shift. The plantation as a social institution is different from the factory as a social institution. The factory worker goes home at the end of the shift to a domestic life that is, at least formally, independent of the employer. The plantation worker has no such separation. The home, the school, the clinic, the ration shop: all of these are provided by and controlled by the employer. The legal obligations that the PLA imposed on the employer in relation to these amenities were not simply employment law provisions: they were the legal infrastructure of a community, and their degradation or withdrawal affects not just the individual worker but the entire social fabric of the plantation settlement. Legal reform that treats the plantation as simply another kind of workplace, governed by the same general rules as a factory or an office, misunderstands the social reality of plantation life and risks dismantling legal protections without providing adequate alternatives.

CHAPTER FORTY-ONE: INTERNATIONAL INSTITUTIONS AND THE GOVERNANCE OF TEA: THE ILO, WTO, FAO, AND THE ARCHITECTURE OF GLOBAL OVERSIGHT

41.1 The International Labour Organization and Tea: Conventions, Recommendations, and the Decent Work Agenda

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The International Labour Organization, founded in 1919 as part of the peace settlement that followed the First World War and today a specialised agency of the United Nations, is the primary international institution through which global labour standards are set and monitored. For the tea sector, the ILO's relevance is pervasive. Its Forced Labour Convention No. 29 of 1930 and the Protocol of 2014 updating it, its Freedom of Association and Protection of the Right to Organise Convention No. 87 of 1948, its Right to Organise and Collective Bargaining Convention No. 98 of 1949, its Minimum Age Convention No. 138 of 1973, its Worst Forms of Child Labour Convention No. 182 of 1999, and its Plantations Convention No. 110 of 1958 all speak directly to conditions in the tea sector. Together these constitute a body of international obligations that the producing countries that have ratified them are legally bound to implement in their domestic law.

The Plantations Convention No. 110, adopted specifically to address the labour conditions of plantation workers, is the ILO instrument most directly relevant to the tea sector. It covers wages, hours of work, annual leave, maternity protection, workers' compensation, freedom of association, and the social security rights of plantation workers. India, however, has not ratified Convention No. 110, a fact that reveals the limits of ILO standard-setting as a mechanism for the protection of plantation workers in the world's largest tea-producing country. The non-ratification of the Plantations Convention by India is not accidental. It reflects a deliberate governmental judgment that the Convention's standards are either higher than domestic law requires or inconsistent with domestic policy choices that the government is unwilling to foreclose. The gap between the ILO's standard and the domestic legal framework that non-ratification permits is precisely the space within which the structural disadvantages of tea workers are perpetuated.

The ILO's Decent Work agenda, articulated in the 1999 report of then Director-General Juan Somavia, provides a comprehensive framework for assessing the quality of employment across four dimensions: productive work, rights at work, social protection, and social dialogue. Applied to the tea sector, the Decent Work framework reveals deficits across all four dimensions. The work of tea plucking, while productive in the economic sense that it generates value, is not productive in the Decent Work sense of being adequately remunerated, secure, and capable of supporting a dignified life. Rights at work are formally recognised in the applicable legislation but substantively unrealised for many workers, as the preceding chapters have documented. Social protection, through provident fund, gratuity, and workers' compensation mechanisms, covers permanent workers on organised estates but largely excludes the casual, temporary, and smallholder segments of the workforce. And social dialogue, the mechanism through which workers and employers negotiate the terms of employment, is systematically constrained by the weakness of trade unions, the geographic isolation of plantations, and the power asymmetry between estate management and individual workers.

The ILO's response to these deficits has been a combination of technical assistance, research, and normative pressure. Its Better Work programme, which has been deployed in garment sector supply chains to improve factory-level compliance with labour standards, has not been systematically extended to agricultural supply chains, including tea. The development of a Better

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Work equivalent for the tea sector, combining independent factory-level monitoring, transparent reporting, and access to remediation, is an institutional innovation that the ILO is well-positioned to lead and that the international tea industry, particularly those companies seeking to demonstrate supply chain compliance with the EU's Corporate Sustainability Due Diligence Directive, would have strong commercial incentives to support.

41.2 The World Trade Organization, Trade Policy, and Tea Labour Standards

The relationship between international trade law and labour standards has been one of the most contentious debates in international economic law for over three decades. The fundamental question is whether the rules of the WTO's multilateral trading system permit, or even require, importing countries to impose trade measures against goods produced under conditions that violate internationally recognised labour standards. This question is directly relevant to the tea sector because the major tea-consuming markets of the EU, the United States, the United Kingdom, and Japan are considering or have adopted instruments that link market access to labour and environmental standards in global supply chains.

The WTO's General Agreement on Tariffs and Trade contains a general exception in Article XX that permits members to take trade measures necessary to protect public morals, human life, and health, and to prevent the products of prison labour. The coverage of forced labour, child labour, and violations of freedom of association under this exception is not explicitly established in GATT text, and the WTO dispute resolution bodies have not directly ruled on whether labour standards violations justify trade restrictions under Article XX. The 1996 WTO Ministerial Declaration in Singapore addressed the labour standards issue by affirming that internationally recognised core labour standards should be observed and that the ILO is the competent body to deal with these standards, but explicitly rejecting the use of labour standards for protectionist purposes and refraining from endorsing trade sanctions as a mechanism for their enforcement.

Since the Singapore Declaration, the geopolitical landscape of trade and labour has changed significantly. The proliferation of Generational System of Preferences (GSP) programmes that condition preferential tariff access on compliance with labour standards, the adoption of mandatory labour chapters in free trade agreements, and the emergence of supply chain due diligence legislation in the EU and other jurisdictions represent a progressive, if contested, trend toward linking market access to labour rights in global supply chains. For tea-exporting countries, the practical implications of this trend are significant. India exports substantial quantities of tea to the EU and the United Kingdom, both of which are developing regulatory frameworks that impose obligations on importers to ensure that their supply chains are free from forced labour and that workers in those chains are treated in accordance with internationally recognised labour standards.

The EU Forced Labour Regulation, adopted in November 2024 and entering into force in December of that year with full application expected by December 2027, prohibits the placing on the EU market of products made with forced labour, defined in accordance with the ILO's Convention No. 29 definition of all work or service exacted under the menace of any penalty and

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for which the person has not offered themselves voluntarily. This regulation applies universally to all products and all countries, including tea from India, Sri Lanka, Kenya, and other major producing countries. While systematic forced labour of the kind the regulation is primarily designed to address is less pervasive in the organised tea estate sector than in some other agricultural supply chains, the conditions of debt bondage, tied housing, and practical immobility that have characterised plantation labour in some contexts, and that continue in modified forms in some estates today, are legally proximate to the forced labour definition and could potentially trigger investigation under the regulation's enforcement mechanisms.

The Corporate Sustainability Due Diligence Directive, adopted as Directive 2024/1760 of 13 June 2024, imposes on large EU companies and their non-EU parent companies a duty to conduct human rights and environmental due diligence across their global value chains. Companies subject to the Directive must identify, prevent, mitigate, and account for actual and potential adverse impacts on human rights and the environment in their own operations and in those of their established business relationships. For EU-based tea companies that source tea from Asian and African estates, this means that they have legally enforceable obligations to assess and address the labour rights impacts of their sourcing practices, including wages, working conditions, freedom of association, and the right to collective bargaining.

The practical implications of the CSDDD for the tea supply chain are potentially very significant. A large EU tea company that sources tea from an estate where workers are paid below living wages, where freedom of association is restricted, or where women workers face systematic pay discrimination may face legal liability under the Directive if it fails to take adequate steps to identify and address these adverse impacts. The Directive requires companies to engage with workers and their representatives in the design and implementation of the due diligence process, creating a legal requirement for the inclusion of worker voice that goes beyond the voluntary commitments of existing certification schemes.

41.3 The Food and Agriculture Organization and Tea: Governance, Research, and the Codex Alimentarius

The Food and Agriculture Organization of the United Nations plays a role in the governance of tea that is less prominent than the ILO's but no less important in practice. The FAO is involved in the governance of tea through several channels. It provides technical assistance to tea-producing countries in agricultural research, extension services, and the development of sustainable production systems. It is the parent organization of the Intergovernmental Group on Tea, a subsidiary body of the Committee on Commodity Problems that provides a multilateral forum for the discussion of tea production, trade, and policy issues. And it is the joint secretariat, with the World Health Organization, of the Codex Alimentarius Commission, which sets international food safety standards including maximum residue limits for pesticides in tea.

The Codex Alimentarius standards for tea are of direct legal significance because they serve as the reference points for the SPS Agreement of the WTO, which requires that national food safety measures be based on international standards unless scientific evidence justifies a higher level of

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protection. The Codex MRL (Maximum Residue Limit) for a particular pesticide in tea is therefore the international baseline against which the food safety measures of importing countries are assessed. Where importing countries like Japan or the EU set MRLs lower than the Codex standard, they face the risk of WTO challenges from exporting countries that argue that the stricter national standard is not scientifically justified and constitutes a disguised restriction on trade.

The intersection of Codex standards, WTO trade law, and the food safety regulations of importing markets creates a three-level governance structure for tea quality and safety that is deeply complex and frequently contested. The governance of this structure is a matter of considerable legal and political significance for tea-producing countries, whose export revenues depend on the ability of their teas to meet the food safety standards of importing markets. The participation of developing country tea producers in the Codex standard-setting process is structurally disadvantaged by the resource constraints that limit their ability to fund the scientific research needed to participate meaningfully in technical discussions, to send adequate delegations to Codex meetings, and to coordinate national positions with sufficient expertise to influence the outcomes.

The legal capacity-building needs of tea-producing countries in the Codex and WTO context are significant and under-served. The ability to challenge the scientific justification of an importing country's food safety measure, to participate effectively in the formulation of international MRLs that serve the interests of producers as well as consumers, and to invoke dispute resolution mechanisms when trade measures are applied in ways that are inconsistent with international obligations, requires a level of legal and scientific expertise that is well beyond the current capacity of most tea-producing country governments. International legal assistance, including through the ITC, the UNCTAD, and bilateral technical cooperation programmes, is an essential element of a fair international governance system for tea.

41.4 The International Tea Agreement and the Governance Gap

One of the most striking features of the international governance landscape for tea, by comparison with other major agricultural commodities, is the absence of an international commodity agreement that provides a framework for managing the structural imbalance between supply and demand in the global tea market. The International Coffee Agreement and the International Cocoa Agreement, though of varying effectiveness, provide frameworks for intergovernmental consultation and, in some periods, price stabilisation mechanisms that have moderated the price volatility from which primary commodity producers suffer. Tea has no equivalent instrument.

The International Tea Agreement of 1933, which operated briefly in the colonial period as a production quota system among the major producing countries, was never revived after the Second World War in the form of a multilateral treaty. The Intergovernmental Group on Tea of the FAO provides a forum for discussion but has no regulatory powers and no ability to implement price support mechanisms. The Tea Board of India, the Sri Lanka Tea Board, the

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Kenya Tea Board, and equivalent bodies in other producing countries act primarily within their national jurisdictions and do not have a strong tradition of multilateral coordination on market governance.

The result of this governance gap is that the tea market operates without any international mechanism for managing the structural oversupply that has periodically driven prices to levels below the cost of production, particularly for smallholder farmers and smaller estates. The price volatility of the tea market is not simply a technical economic problem: it is a legal and governance problem. When the market price of tea falls below the cost of production, the economic pressure on estate owners is transmitted directly to workers in the form of wage freezes, cuts in welfare provision, failure to maintain housing and medical facilities, and in extreme cases the closure of estates entirely. The closed tea garden problem in West Bengal and Assam, where numerous estates have been abandoned by their owners, leaving thousands of workers without employment, wages, or the welfare services that the estate provided, is a direct consequence of the governance failure at the international level that allows price crashes to devastate the incomes of the most vulnerable participants in the supply chain.

The legal dimensions of the closed garden problem are addressed in part by domestic legislation, including West Bengal's Tea Plantation Employees' Provident Fund Ordinance and the mechanisms under which the state government can take over the management of abandoned gardens. But these domestic legal responses are inherently reactive and inherently inadequate, because they address the consequences of the market failure without addressing its causes. An international legal framework for the governance of the tea market, establishing minimum price floors or production adjustment mechanisms, would not be an unprecedented interference with the principles of free trade: it would be a recognition, consistent with the principles of international law on the right to development and the duty of international cooperation, that the governance of commodity markets in a way that allows primary producers to survive is an obligation of the international community, not merely a matter of market efficiency.

CHAPTER FORTY-TWO: SUPPLY CHAIN DUE DILIGENCE LAW AND THE TEA SECTOR: THE EU CORPORATE SUSTAINABILITY FRAMEWORK AND ITS IMPLICATIONS

42.1 The Architecture of EU Supply Chain Accountability Law

The years 2024 and 2025 have witnessed the completion of a legislative architecture for mandatory corporate sustainability due diligence in the European Union that represents the most ambitious and legally sophisticated attempt yet made by a major trading bloc to extend the reach of human rights and environmental law to global supply chains. The three principal instruments of this architecture are the Corporate Sustainability Due Diligence Directive (CSDDD) adopted in June 2024, the EU Forced Labour Regulation adopted in November 2024, and the Corporate Sustainability Reporting Directive (CSRD) adopted in December 2022, which together create a

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comprehensive framework of disclosure, due diligence, and prohibition that extends across the global operations and value chains of large EU companies.

For the tea sector, these three instruments collectively create a new legal landscape in which the relationships between EU tea companies and their suppliers in India, Sri Lanka, Kenya, China, and other producing countries are subject to legal obligations that originate not in the law of the producing country but in EU law, exercised through the market power of EU importers and enforced through the domestic legal systems of EU member states. This extraterritorial reach of EU law is unprecedented in its ambition and represents a qualitatively new form of international regulatory governance that scholars of international economic law are only beginning to analyse in full depth.

The CSDDD requires in-scope companies, initially those with more than 1,000 employees and a global turnover of more than 450 million euros (a threshold that will progressively be lowered), to identify, prevent, mitigate, and account for adverse human rights and environmental impacts in their own operations, those of their subsidiaries, and those of their established business relationships. The human rights impacts specifically covered include those arising from violations of internationally recognised instruments including the ILO's core conventions on forced labour, child labour, freedom of association, and collective bargaining, as well as a broader list of fundamental rights including the right to life, liberty, and security of person, the right to just and favourable conditions of work, and the prohibition of discrimination. The environmental impacts covered include those arising from violations of the Paris Agreement's obligations, the Convention on Biological Diversity, and specific environmental conventions covering hazardous chemicals, waste, and mercury.

For a large EU tea company that sources tea from South Asian estates, the CSDDD's practical obligations translate into a requirement to conduct a thorough assessment of the human rights and environmental risks in its supply chain, to develop and implement a plan to address identified risks, to establish a complaints mechanism through which affected workers and communities can raise concerns, to report annually on its due diligence efforts, and, critically, to be subject to civil liability for damages caused by its failure to conduct adequate due diligence where that failure leads to adverse impacts that the company could have prevented.

The civil liability provision of the CSDDD is potentially the most transformative aspect of the Directive for the tea supply chain. It creates the legal possibility, for the first time in EU law, that a tea worker in Assam who suffers an adverse impact from the labour practices of an estate from which an EU company sources tea, could bring a civil damages claim against that EU company in a domestic EU court, on the grounds that the company failed to take adequate due diligence steps to identify and prevent the adverse impact. This extraterritorial civil liability is not unlimited: it requires that the company had the ability to prevent the adverse impact, that it failed to do so despite its due diligence obligations, and that the worker can demonstrate causation between the company's failure and the harm suffered. These are high evidentiary thresholds, and the practical barriers of cost, language, jurisdiction, and enforcement that face a tea worker in rural Assam seeking to sue an EU company in a European court are formidable.

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42.2 The Forced Labour Regulation and Its Application to Tea

The EU Forced Labour Regulation of November 2024 operates on a different logic from the CSDDD. Rather than imposing process obligations on companies and creating civil liability for failure to conduct due diligence, the Regulation imposes a substantive prohibition: products made with forced labour may not be placed on the EU market, regardless of where they originate or which company is responsible for bringing them to market. The Regulation authorises national competent authorities and the European Commission to initiate investigations into suspected forced labour in supply chains, to prohibit the import of products found to have been produced with forced labour, and to require the withdrawal from the market of products already placed there.

The adoption of the ILO's definition of forced labour, encompassing all work or service exacted under the menace of any penalty and for which the person has not offered themselves voluntarily, is legally significant because it is broader than the lay understanding of forced labour as slavery or physical coercion. Under the ILO definition, work that is extracted through the menace of dismissal, the loss of tied housing, the withdrawal of food rations, or the imposition of debt that workers cannot otherwise repay may constitute forced labour if the practical alternatives available to the worker are so limited as to make the work non-voluntary in any meaningful sense. In the plantation context, where workers live in employer-owned housing, depend on employer-provided rations, and are geographically isolated from alternative employment markets, the conditions for forced labour in the ILO sense may be present in a form that the Regulation's investigators would need to assess carefully.

The Regulation's enforcement mechanism places significant investigative responsibilities on competent national authorities, which in the EU member states are typically market surveillance or customs authorities. These authorities may lack the specific expertise in plantation labour conditions, the language capacity to engage with workers in remote tea-growing regions, and the resources needed to conduct thorough supply chain investigations. The development of adequate enforcement capacity is therefore a critical challenge for the Regulation's practical effectiveness. The European Commission is required to publish guidelines on compliance by June 2026, which presents an opportunity to provide specific guidance on the indicators of forced labour risk in agricultural supply chains, including tea, and on the due diligence practices that companies should adopt to reduce that risk.

42.3 The Politics of Extraterritoriality and the Response of Producing Countries

The extension of EU law to global supply chains through the CSDDD and the Forced Labour Regulation has been met with a complex response from tea-producing countries. India, as the world's second-largest tea producer and a major EU trading partner, has engaged actively with the implications of EU supply chain legislation through its trade negotiating channels. The India-EU Free Trade Agreement negotiations, which resumed in 2022 after a decade-long hiatus, include discussions of sustainability provisions that are directly relevant to the EU's supply chain legislative agenda. India's trade negotiators have pushed back against provisions that they

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characterise as non-tariff trade barriers, arguing that the imposition of EU labour standards on Indian supply chains through the CSDDD and related instruments is a form of extraterritorial regulatory overreach that violates India's sovereign right to determine its own labour law framework.

This sovereignty argument has genuine legal and philosophical weight. The principle of sovereign equality, enshrined in the UN Charter, includes the right of states to determine their own economic, social, and legal systems. The imposition of external regulatory requirements as a condition of market access is a form of regulatory coercion that, when exercised by powerful importing countries against weaker exporting countries, replicates in some respects the colonial pattern of the strong dictating the terms of the relationship with the weak. The theoretical framework of postcolonial legal studies, associated with scholars like Sundhya Pahuja and Antony Anghie, provides analytical tools for recognising and critiquing this dynamic without simply accepting the status quo of inadequate labour protection in the name of sovereignty.

At the same time, the sovereignty argument cannot be an absolute defence against external accountability when the violation of rights is systematic and the domestic legal system is unable or unwilling to provide adequate remedies. The principle of state responsibility in international law provides that a state that fails to meet its international human rights obligations may be subject to internationally sanctioned responses by other states, including the restriction of trade as a last resort where other means have failed. The question is not whether external accountability for labour rights violations is in principle illegitimate, but rather whether the specific instruments being deployed by the EU are proportionate, procedurally fair, and genuinely aimed at improving labour rights rather than at protecting domestic industries from competition.

The answer to this question is not simple. The CSDDD and the Forced Labour Regulation are, at their best, genuine attempts to use the market power of the EU to improve labour conditions in global supply chains in a way that voluntary CSR has conspicuously failed to achieve. But at their worst, they risk becoming instruments of de facto protectionism that impose disproportionate compliance burdens on small and medium-scale enterprises in developing countries, that direct trade toward compliant suppliers in wealthier countries with stronger regulatory infrastructure, and that leave the workers who are supposedly the beneficiaries of the regime worse off than before if compliance costs lead to the withdrawal of trade relationships. The critical assessment of these instruments must hold both possibilities in view simultaneously, rather than simply endorsing or condemning the extraterritorial project in the abstract.

42.4 Compliance Strategies for Tea Companies Under the New Regime

The practical legal challenge for tea companies of all sizes operating in the supply chain governance landscape created by the EU instruments is to develop compliance strategies that are legally adequate, operationally feasible, and genuinely oriented toward improving conditions rather than merely generating documentation that provides legal cover. The distinction between substantive compliance and documentary compliance is one that scholars of regulatory law,

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including Braithwaite and Ayres in their influential analysis of "Responsive Regulation" (1992), have consistently identified as the key challenge in designing effective regulatory systems.

A tea company seeking to demonstrate compliance with the CSDDD's due diligence obligations in relation to its supply chain in India or Kenya must, at minimum, conduct a risk assessment of its established business relationships to identify potential adverse human rights and environmental impacts. This assessment must go beyond desk research and require engagement with the workers and communities affected by the company's sourcing decisions. The Directive's requirement that companies establish a complaints mechanism accessible to workers and their representatives is particularly significant in the tea context, because it creates a legal obligation to create channels through which the workers who are supposedly the beneficiaries of the due diligence regime can actually report problems and seek remediation.

The development of these mechanisms in practice requires attention to the power dynamics of the plantation context. A worker who reports a labour rights violation to a company-operated complaints mechanism faces significant risks of retaliation from estate management, particularly where housing, rations, and access to medical facilities are controlled by the employer. The effectiveness of any complaints mechanism depends critically on the protection of complainants from retaliation, which requires not only the company's internal policies but external legal protection through whistleblower protection laws and independent oversight. India's current whistleblower protection framework, the Whistle Blowers Protection Act 2014, provides some protections but has significant gaps in the agricultural and plantation context that need to be addressed through specific regulatory provisions.

CHAPTER FORTY-THREE: ACCESS TO JUSTICE IN TEA LAW: LEGAL AID, CLINIC SYSTEMS, AND THE CHALLENGE OF THE REMOTE PLANTATION

43.1 The Access to Justice Deficit in the Tea Sector

Access to justice is the practical test of whether the rights that the law nominally confers are real rights or paper rights. A right that the right-holder cannot practically exercise, because they cannot afford a lawyer, cannot navigate the legal system, cannot travel to a distant court or labour authority, or cannot bear the risk of retaliation that invoking their legal rights might entail, is not a right in any substantively meaningful sense. Amartya Sen's capabilities approach, which has provided a consistent philosophical thread throughout this textbook, insists that what matters is not merely the formal existence of rights but whether people have the practical capability to exercise them. Access to justice is, in Sen's terms, a constitutive element of the capability to lead a dignified human life.

In the tea sector, the access to justice deficit is profound. Tea plantation workers in Assam, Darjeeling, and the Nilgiris are geographically remote from courts and labour tribunals, linguistically separated from the dominant legal culture (most plantation workers speak their

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community's ancestral language or a plantation dialect rather than the Hindi or English that dominates legal proceedings), economically unable to afford legal representation, and practically vulnerable to the retaliation of estate management if they pursue legal claims against their employer. Smallholder tea farmers in Kenya's tea-growing regions face similar barriers: the Tea Board of Kenya's dispute resolution mechanisms and the formal court system are accessible in principle but practically out of reach for a farmer in a remote highland area without legal knowledge, resources for transport and legal fees, or protection against retribution from the companies that buy their green leaf.

The right to access justice has constitutional foundations in multiple producing countries. In India, the right of access to courts is implicit in the constitutional guarantee of equal protection of the laws in Article 14, the right to constitutional remedies in Article 32, and the constitutional mandate in Article 39A that the state shall secure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall in particular provide free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The implementation of this constitutional mandate through the legal aid system, including the National Legal Services Authority and its state and district equivalents, is the subject of ongoing critique for its inadequacy of reach, quality, and specialisation in the agricultural and plantation labour context.

The structural inadequacy of the legal aid system for plantation workers has several dimensions. The first is geographic: legal services authorities are concentrated in urban centres, while plantations are in remote rural and hill areas that are often hours of difficult travel from the nearest legal aid office. The second is linguistic: legal aid panels are typically composed of lawyers qualified in the dominant language of the state's legal system, who may not be able to communicate effectively with workers whose primary language is a tribal or minority language. The third is specialisation: general legal aid lawyers have little specific knowledge of plantation labour law, including the complex interaction between the PLA, the new labour codes, state-specific regulations, collective bargaining agreements, and the administrative procedures of tea boards and plantation labour departments. The fourth is cultural: the formal legal system is often experienced by plantation workers as alien and intimidating, and the practical ability to navigate it effectively requires not just legal representation but legal empowerment, the development of the knowledge and confidence to assert rights as a matter of justice rather than receive them as a matter of charity.

43.2 Law School Clinics and Grassroots Legal Services in Tea Communities

The development of law school clinical legal education programmes specifically focused on tea labour law and related areas is an institutional innovation with significant potential to address the access to justice deficit in tea-growing regions. Clinical legal education, which involves law students working under faculty supervision to provide real legal services to real clients while developing their practical legal skills, has been established in India through the Bar Council of India's requirement that all law schools include a clinical component in their curriculum.

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Several law schools in tea-growing regions have developed clinics with specific expertise in agricultural and plantation labour issues. The National Law University Assam in Guwahati has been developing clinical programmes that address tea plantation workers' rights, including outreach programmes in collaboration with tea workers' unions. The Gujarat National Law University has been developing expertise in agricultural law through its clinical programme, though its geographic focus is distant from the major tea-growing regions. The challenge for clinical programmes in the plantation context is not just the development of legal expertise but the development of community trust and the establishment of operational linkages with the trade unions, civil society organisations, and community health workers who are the primary entry points for plantation workers seeking help with any kind of problem, legal or otherwise.

The most effective models of access to justice in the plantation context combine legal services with community organising, health services, and livelihood support in a way that recognises the interconnection of the problems plantation workers face and the community's need for a relationship of trust with service providers that is not limited to formal legal advice. The Integrated Legal Services approach, developed in various forms by organisations like the Adarsh Gram Kendra in West Bengal's tea districts, combines legal advice on labour rights, land rights, and social security entitlements with health outreach, literacy programmes, and cooperative development support. This integrated approach recognises that the access to justice problem in the plantation context is not simply a problem of inadequate legal representation but a problem of the structural disempowerment of a community that has been historically excluded from the institutions of legal and political citizenship.

The funding of these integrated services is a persistent challenge. Legal aid provided through the National Legal Services Authority is subject to means and eligibility criteria that may exclude some potential beneficiaries, and the quality of panel lawyer services in remote areas is often inadequate. NGO-funded legal services are subject to the uncertainties of grant funding and the priorities of international donors, which do not always align with the priorities identified by affected communities. The development of a stable, adequately resourced, and community-accountable legal services infrastructure for tea plantation communities requires sustained public funding at both the state and central government levels, complemented by contributions from the tea industry through a mandatory industry welfare fund mechanism analogous to those that have been proposed in the context of other sectors with vulnerable workforces.

43.3 Technology and Access to Justice: Legal Aid Apps, Online Dispute Resolution, and the Digital Divide

The deployment of legal technology for access to justice purposes in the tea sector raises a fundamental tension between the transformative potential of digital tools and the reality of the digital divide in remote plantation communities. Legal information apps, online legal aid platforms, and virtual consultation services have the potential to extend legal knowledge and advice to communities that are geographically inaccessible to physical legal service providers. The potential is real and should not be dismissed.

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But the potential is also limited in ways that are specifically acute in the plantation context. Internet connectivity in many of India's tea-growing areas remains inadequate, particularly in the hill districts of Darjeeling and the Nilgiris. Smartphone ownership among plantation workers, while growing, is still far from universal, particularly among older workers and women. Digital literacy among plantation workers is limited, and the interfaces of most legal technology applications are designed for urban, educated users who can navigate complex menus and fill in structured forms. Language support for the tribal and minority languages spoken by many plantation workers is minimal in most legal aid applications. And the nature of the legal problems that plantation workers face, which typically involve complex factual situations embedded in the social dynamics of the estate, is not well-suited to the kind of simplified, standardised legal information that apps can most easily provide.

These limitations argue for a nuanced rather than an uncritical embrace of legal technology for access to justice in the plantation context. Technology should be used to support and extend the reach of human legal service providers rather than to substitute for them. A network of trained community paralegal workers, equipped with basic digital tools that allow them to access legal information, communicate with supervising lawyers, and document the facts of clients' cases, represents a more promising model than a purely app-based legal service that workers must navigate without human intermediation. The South African Community Advice Office model and the Jamaican Legal Aid Council's community outreach programme provide comparative examples of community-based para-legal services that have demonstrated effective reach in poor, rural communities.

43.4 Collective Dispute Resolution and the Role of Trade Unions

The most historically effective mechanism for access to justice in the tea labour context has been collective organisation through trade unions, which can aggregate the legal claims of individual workers, provide representation in collective bargaining, and exercise countervailing power against the structural advantages of the employer. The legal framework governing trade union rights in the tea sector is therefore a critical dimension of the access to justice analysis.

India's Industrial Relations Code 2020, the successor to the Trade Unions Act 1926 and the Industrial Disputes Act 1947, establishes the framework for trade union recognition and collective bargaining in the tea sector. The Code introduces the concept of the "negotiating union," which is the recognised bargaining representative for a particular establishment, to be determined by a verification of union membership among the workers covered. This concept, while consistent with principles of democratic union representation, creates risks in the plantation context where workers may be subject to employer pressure to deny union membership or to join employer-favoured unions rather than genuinely independent worker organisations.

The right to organise and the practical freedom to exercise that right are two different things. In the plantation context, where the employer controls housing, rations, and the physical infrastructure of the workers' community, the practical barriers to genuine union organising are

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significant. Workers who actively organise may face eviction from estate housing, denial of rations, exclusion from work allocation, and physical intimidation. The legal protection against anti-union discrimination, while formally provided by the Industrial Relations Code, depends for its effectiveness on an enforcement mechanism that is genuinely responsive to the complaints of individual workers who cannot afford to wait months or years for a labour tribunal to adjudicate their claim while facing homelessness and hunger in the interim.

The strengthening of trade union rights in the tea sector, including through specific legislative protections against anti-union discrimination, mandatory grievance resolution timelines in plantation labour disputes, and the protection of workers from eviction pending the resolution of labour disputes, is an essential element of the access to justice reform agenda. Without effective trade union protection, the individual rights that the new labour codes and the international supply chain legislation seek to enforce will remain practically unrealisable for the vast majority of plantation workers.

CHAPTER FORTY-FOUR: GENDER JUSTICE IN TEA LAW: AN INTERSECTIONAL FRAMEWORK FOR REFORM

44.1 The Feminisation of Tea Labour and the Masculinisation of Tea Rights

One of the most revealing paradoxes of the tea sector is that the industry's most critical operations are performed predominantly by women, while the legal rights, institutional representation, and economic benefits associated with the industry are predominantly structured for and around men. The feminisation of the plucking labour force, with women constituting eighty percent of pluckers in most South Asian estate contexts, is not an accidental feature of the labour market. It is the product of deliberate historical patterns of labour deployment that assigned women to the physically intensive, low-prestige, low-paid work of plucking while reserving supervisory, processing, and managerial roles for men.

This gendered division of labour has a legal dimension that goes beyond the obvious issue of pay discrimination, significant as that is. The legal framework governing access to land, housing, and social security in the plantation context has historically been constructed around the male household head. Plantation housing was allocated to the permanent male worker; his wife and children were accommodated as dependants rather than as independent rights-bearers. Social security entitlements, including provident fund contributions and gratuity payments, were calculated on the basis of the individual worker's period of continuous employment, in a framework that disadvantaged women who took breaks for maternity and childcare. Trade union leadership was male-dominated, in a pattern consistent with the broader gender hierarchy of the plantation community, and the collective bargaining agreements negotiated by male-dominated unions reflected the priorities of the male permanent worker rather than the female temporary plucker.

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The formal legal instruments addressing gender equality in the workplace, including the Equal Remuneration Act 1976 (now subsumed in the Code on Wages 2019), the Maternity Benefit Act 1961 (preserved in the Code on Social Security 2020), and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, provide a statutory framework that is formally applicable to tea plantation workers. The Code on Wages 2019 mandates equal remuneration for equal work, prohibiting discrimination on the ground of sex in the payment of wages. The Code on Social Security 2020 maintains maternity benefit provisions and extends the period of paid maternity leave to twenty-six weeks for the first two children.

But the application of these formal equalities to the plantation context requires confronting the structural inequalities that make formal equality less than just. The Equal Remuneration principle addresses pay discrimination for the same work, but does not address the allocation of different work at different pay rates along gendered lines. The fact that women are allocated to plucking, which is paid less than processing or supervisory work, is a form of sex discrimination in the allocation of work opportunities that equal pay law, technically interpreted, does not reach. The development of a legal doctrine of comparable worth, under which women workers in feminised occupations could claim wages equal to those of men in comparably skilled but different male-dominated occupations, is one avenue of legal reform that would more directly address the structural wage gap in the plantation context.

The Sexual Harassment Act 2013 requires employers to constitute Internal Complaints Committees in every workplace, and to provide a mechanism for workers to report and seek redress for sexual harassment. In the plantation context, the enforcement of this requirement faces serious obstacles. The isolated and hierarchical social environment of the tea estate creates conditions of vulnerability to sexual harassment, particularly for women temporary workers who depend on the goodwill of male supervisors for their work allocation and whose tied housing makes it practically impossible to avoid their harasser. The power of the ICCs where they exist is limited in the plantation context by the dominance of management interests in their composition and by the absence of effective external oversight.

44.2 Maternity Rights, Childcare, and the Double Burden of Plantation Women

The intersection of reproductive rights, childcare, and plantation labour law deserves extended treatment as an area of both doctrinal complexity and profound practical importance. Women tea pluckers in their reproductive years face what feminist economists have described as the double burden: the burden of waged labour in the field, which is physically demanding and subject to specific productivity targets, and the burden of unpaid reproductive labour in the home, including pregnancy, childbirth, breastfeeding, and childcare.

The legal framework seeks to address part of this double burden through maternity benefit provisions that entitle women workers to paid leave for twenty-six weeks (for the first two children) under the Code on Social Security. The PLA required estates to maintain crèches for the children of women workers, and this requirement has been preserved in the OSHWC Code. But the implementation of these provisions in practice is deeply inadequate. Survey data from

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Assam's tea estates consistently documents that crèche facilities are absent, inadequate, or poorly maintained on a large proportion of estates. Women who take their full maternity entitlement may find on their return that their employment has effectively been terminated by the conversion of their permanent status to temporary or casual, a practice that the law prohibits but that is difficult to challenge without effective enforcement and union support.

The philosophical framework most relevant to the analysis of maternity and childcare rights in the tea context is the ethics of care, developed by feminist philosophers including Carol Gilligan, Virginia Held, and Joan Tronto. The ethics of care insists that the relationships and activities of care are fundamental to the good society, and that legal and economic systems that treat care work as a purely private responsibility, invisible and uncompensated, are not merely inefficient but unjust. A tea labour law that requires employers to provide crèches and maternity leave but fails to enforce those requirements, and that structures the labour market in ways that make women who exercise their reproductive rights economically vulnerable, embodies a formal commitment to the ethics of care that it simultaneously undermines in practice.

The reform agenda for maternity and childcare rights in the tea sector must go beyond formal legal compliance and address the structural conditions that make formal rights practically unrealisable. This means enforcing crèche requirements through credible inspection and significant penalties for non-compliance. It means prohibiting the conversion of permanent employment to casual status during or following maternity leave, with strong enforcement and rapid remediation mechanisms. It means developing industry-funded childcare facilities that can provide adequate care for children while their mothers work, as a collective responsibility of the tea industry rather than an individual employer obligation that can be evaded by small or struggling estates. And it means recognising and compensating the unpaid care work that women perform within the plantation household through social security mechanisms that provide credits for care periods in the same way that they provide credits for waged employment.

44.3 Women's Land Rights and the Plantation Household

The land patta reform enacted by the Assam government in 2025, while imperfect in many other respects as analysed above, raises a specific question of gender justice that requires direct legal analysis: in whose name will the land titles be settled? The plantation household, as a legal unit, has historically been defined through the permanent worker, who is more often than not a man. The labour lines housing allocation was typically recorded in the name of the male permanent worker, and the household's entitlement to welfare amenities, rations, and work allocation was structured around his employment.

If the land patta reform settles titles in the names of the male permanent workers in whom the existing housing records vest, it will replicate in the new private property framework the gendered dependencies that characterised the tenure-from-employment framework it purports to replace. A woman whose employment is casual or temporary, or who has no recorded employment of her own and is registered as a dependent of her husband, will acquire no independent title under a reform that follows existing records. A widow whose husband's

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employment has lapsed may not be entitled to any title at all if the legislative framework does not specifically address succession and the rights of bereaved households.

The legal demand of gender justice in this context is clear: land titles must be settled jointly in the names of both spouses in a married household, and specifically in the names of women heads of household in households where a woman is the primary permanent worker. This requirement should be legislated explicitly rather than left to administrative discretion, which has historically produced gendered outcomes in land titling exercises in the plantation context and beyond. The comparative experience of land reform in contexts including Mexico's ejido reform, Rwanda's land tenure regularisation programme, and India's own Forest Rights Act implementation, all of which have grappled with the gendered dimensions of collective land titling, provides a rich body of practice and legal analysis that should inform the design of the Assam patta settlement process.

CHAPTER FORTY-FIVE: CONSTITUTIONAL DIMENSIONS OF TEA LAW REFORM: FUNDAMENTAL RIGHTS, DIRECTIVE PRINCIPLES, AND THE STATE'S OBLIGATIONS TO TEA COMMUNITIES

45.1 The Constitutional Framework of Tea Labour Rights in India

The Constitution of India is not merely a document of governmental organisation. It is, as B.R. Ambedkar insisted in his concluding speech to the Constituent Assembly, a social document, one that embodies the commitment of the Indian state to the transformation of a society historically organised around exploitation, hierarchy, and exclusion into one organised around dignity, equality, and freedom. The rights of tea workers, read within this constitutional vision, are not concessions to be granted by a benevolent government but entitlements that flow from the foundational commitments of the constitutional order.

The fundamental rights most directly relevant to tea workers are the right to equality under Articles 14 and 15 (including the prohibition of discrimination on grounds of caste, which is directly implicated by the caste composition of the plantation workforce), the right to freedom of association under Article 19(1)(c), the right to move freely throughout the territory of India under Article 19(1)(d) (a right whose historical violation through the penal contract system was the defining injustice of colonial plantation law), the right to practise any profession or carry on any occupation under Article 19(1)(g) (which is implicated when workers are effectively trapped in plantation employment through structural dependence), and the right to life and personal liberty under Article 21, interpreted by the Supreme Court to include the right to live with human dignity and the right to livelihood.

The directive principles of state policy in Part IV of the Constitution provide the normative framework for legislative reform. Article 38 requires the state to strive to promote the welfare of the people by securing a social order in which justice, social, economic, and political, shall

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inform all institutions of the national life. Article 39 provides that the state shall, in particular, direct its policy toward securing that the citizens, men and women equally, have the right to an adequate means of livelihood, that the ownership and control of the material resources of the community are distributed to the best advantage of the community, and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment. Article 43 requires the state to endeavour to secure by suitable legislation or economic organisation to all workers, agricultural, industrial, or otherwise, work, a living wage, conditions of work ensuring a decent standard of life, and full enjoyment of leisure.

These directive principles, read together with the fundamental rights, create a constitutional mandate for tea labour law reform that is comprehensive and ambitious. The right to a living wage for tea workers, as a constitutional obligation of the state derived from Articles 21 and 43, is an argument that has been made repeatedly in litigation before the High Courts and the Supreme Court and that has received significant judicial support in the broader jurisprudence of labour rights, even if it has not yet been the subject of a definitive ruling specifically addressed to the tea plantation wage.

45.2 The Right to Livelihood and Its Application to Tea Workers

The right to livelihood as a constitutional right was first authoritatively recognised by the Supreme Court of India in Olga Tellis v. Bombay Municipal Corporation (1985), where the Court held that the right to life in Article 21 necessarily includes the right to livelihood, because no person can live without the means of living. The subsequent development of this jurisprudence, through cases including Bandhua Mukti Morcha v. Union of India (1984), which addressed the conditions of bonded labour, and Vishaka v. State of Rajasthan (1997), which developed the framework for the protection of women's right to safe working conditions, has progressively enriched the constitutional framework available for the protection of tea workers.

The most significant recent elaboration of the right to livelihood in the context of agricultural labour is the body of cases addressing the closure of tea gardens and the abandonment of workers by estate owners. The Calcutta High Court, in a series of cases arising from the closure of tea gardens in the Dooars region of West Bengal, has held that the closure of a tea garden without adequate provision for the welfare of resident workers violates the workers' right to life and livelihood under Article 21. The Court has exercised its supervisory jurisdiction to require the state government to intervene in closed garden situations, to ensure the continued supply of rations and medical care to stranded workers, and to take steps to revive or transfer the management of abandoned estates.

This line of authority is significant not only for its immediate practical implications for closed garden workers but for the broader jurisprudential proposition it embodies: that the plantation worker's right to life is directly implicated by the closure or abandonment of the estate on which they live and depend, and that the state has a constitutional obligation to take positive steps to protect that right when private action fails. This is a powerful statement of the social state's responsibilities toward the most vulnerable members of the plantation community, and it

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provides a constitutional basis for a range of legislative and administrative reforms that go considerably beyond the formal minimum standards of the Plantation Labour Act.

45.3 Environmental Justice and Constitutional Rights in the Tea Context

The right to a healthy environment, recognised by the Supreme Court as implicit in the right to life under Article 21 in cases including Subhash Kumar v. State of Bihar (1991) and MC Mehta v. Union of India (the Ganga Pollution cases), has direct application in the tea plantation context. Tea workers who are exposed to pesticides without adequate protection, who drink water contaminated by agrochemical runoff, who live in housing without adequate sanitation, or whose communities suffer the health consequences of deforestation and the destruction of natural water management systems by plantation agriculture, all have constitutional claims that can be pursued through the environmental dimension of the right to life.

The constitutional framework for environmental justice in the tea sector connects to the rapidly developing body of international law on the right to a healthy environment, which was formally recognised by the UN Human Rights Council in July 2021 (in Resolution 48/13) and by the UN General Assembly in July 2022. India's approach to the constitutional right to environment provides a model for the development of enforceable standards in the specific context of plantation agriculture, and the litigation strategies developed by environmental law organisations including the Centre for Policy Research, the South Asia Network on Dams, Rivers and People, and the Legal Initiative for Forest and Environment could be adapted to address the specific environmental justice issues of tea-growing communities.

CHAPTER FORTY-SIX: THE JURISPRUDENCE OF A JUST TEA ECONOMY: PHILOSOPHICAL FOUNDATIONS FOR A REFORMED LEGAL ORDER

46.1 John Rawls and the Difference Principle in the Tea Economy

Throughout this textbook, the philosophical framework of John Rawls's "A Theory of Justice" (1971) has been invoked as one of the most powerful normative tools for assessing the justice of the legal and economic arrangements that govern the tea sector. It is appropriate in this concluding chapter to develop the Rawlsian analysis of the tea economy more fully and to consider both its insights and its limitations.

Rawls's original position, a thought experiment in which parties choosing the principles of social justice are placed behind a veil of ignorance that deprives them of knowledge of their own position in society, their natural talents, their race, sex, and generation, is a device for testing the impartiality of proposed principles. Rawls argues that parties in the original position would choose two principles: first, that each person should have the most extensive system of equal basic liberties compatible with a similar system of liberty for all; and second, that social and economic inequalities are only justified if they are (a) attached to positions open to all under

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conditions of fair equality of opportunity and (b) to the greatest benefit of the least advantaged members of society. The second principle is the Difference Principle, which requires that the economic gains of any social arrangement be evaluated from the perspective of those who are worst off.

Applied to the tea economy, the Rawlsian framework is both illuminating and demanding. The least advantaged members of the tea economy are, unambiguously, the temporary casual workers, the smallest smallholder farmers, the women pluckers on estates with the lowest wage rates, and the communities in closed tea garden situations whose livelihoods have been withdrawn without adequate compensation or alternatives. The Difference Principle requires that the economic arrangements of the tea industry, including the wage structure, the land tenure system, the trade and intellectual property law that governs the market for tea, and the technology deployment decisions that determine how productivity gains are shared, must be justified by reference to the benefits they provide to these least advantaged members.

By this standard, the current legal and economic framework of the tea industry fails the test of justice in multiple, interconnected ways. The wage levels of plantation workers, at 232 to 250 rupees per day in Assam, are insufficient to sustain a dignified life; they do not represent the least advantaged members of society sharing in the gains of an industry that generates significant profits for estate owners, tea companies, and shareholders. The intellectual property framework that concentrates the value of tea innovations, including geographical indications, breeding innovations, and processing trade secrets, in the hands of large companies and established producers, without adequate mechanisms for benefit sharing with the farmers and workers whose knowledge and labour are constitutive inputs, does not satisfy the fair equality of opportunity requirement. The market governance gap that allows price crashes to devastate the incomes of smallholder farmers, while the shareholders of tea companies enjoy the benefits of cost reductions in their supply chains, does not represent an arrangement that the least advantaged parties would endorse in the original position.

The Rawlsian demand on tea law is therefore for a comprehensive reform of the distributive arrangements of the industry, not merely incremental adjustments to specific statutes. This reform must address the wage structure, the land tenure and social security system, the market governance framework, the intellectual property system, and the environmental responsibilities of the industry in a coherent and integrated way, guided by the overriding principle that the arrangements must be justifiable to those who are worst off.

46.2 Amartya Sen and the Capabilities Approach: Tea Law as Freedom

If Rawls's framework provides the structural architecture of justice, Sen's capabilities approach provides its substance. Sen, building on the work of Aristotle and the concept of human flourishing, argues in "Development as Freedom" (1999) that the proper objective of legal and economic institutions is to expand the real freedoms that people enjoy. Freedom, in this context, is not merely the absence of legal constraint but the positive capability to pursue a valued way of

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life: to be nourished, to be healthy, to be educated, to participate in community life, to have self-respect, and to have control over one's environment.

Applied to the tea sector, the capabilities approach directs attention to the specific freedoms that tea workers and smallholder farmers lack, not abstractly but in the concrete circumstances of their lives. A tea plucker in Assam who is physically healthy, technically skilled, and legally entitled to join a union but who cannot in practice exercise that right because she fears eviction from estate housing if she does so, lacks the real freedom to exercise the right to freedom of association. A smallholder tea farmer in Kenya who is legally entitled to seek better prices for his green leaf but who has no access to market information, no transport to alternative buyers, and no financial reserve to absorb the risk of disrupting his relationship with the current buyer, lacks the real freedom to participate in the market on fair terms.

The legal reform agenda that the capabilities approach generates is therefore an agenda focused on the expansion of real freedoms rather than simply the formal recognition of rights. It requires not only better labour law but better housing security so that workers can exercise labour rights without fearing homelessness. Not only better market regulation but better information infrastructure so that smallholder farmers can make genuinely informed decisions. Not only better intellectual property law but better access to agricultural research and extension services so that farmers can benefit from innovations developed for their needs. Not only better environmental law but better enforcement institutions with the resources and political independence to actually hold powerful actors to account.

This is a more demanding programme than formal legal reform alone. It requires an understanding of law not as a set of rules administered by courts but as an institutional infrastructure for the production of freedom, a system of norms, institutions, resources, and relationships that either expands or contracts the real capabilities of the people it governs. Legal reform in the tea sector, to be adequate to the capabilities approach, must be accompanied by institutional reform, resource allocation, political will, and a sustained commitment to the dignity of the people whose lives the law governs.

46.3 Martha Nussbaum and the Central Human Capabilities in the Plantation Context

Martha Nussbaum, building on and extending Sen's capabilities approach in "Women and Human Development" (2000) and subsequent works, offers a specific list of central human capabilities that she argues are so fundamental that a life without them is not a fully human life. Her list includes: life (being able to live a human life of normal length); bodily health (being able to have good health, adequate nourishment, and adequate shelter); bodily integrity (being able to move freely from place to place, to be secure against assault and sexual violence); senses, imagination, and thought (being able to use the senses, to imagine, think, and reason in a truly human way, informed and cultivated by an adequate education); emotions (being able to have attachments to things and persons outside oneself); practical reason (being able to form a conception of the good and to engage in critical reflection about the planning of one's life); affiliation (being able to live with and toward others); other species (being able to live with

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concern for and in relation to other species); play (being able to laugh, play, and enjoy recreational activities); and control over one's environment, both politically and materially.

The application of Nussbaum's list to the situation of tea plantation workers reveals a systematic deficiency across multiple capabilities simultaneously. Bodily health is compromised by pesticide exposure, inadequate nutrition, and inadequate healthcare. Bodily integrity is compromised by the sexual vulnerability of women workers in isolated plantation environments and by the physical hazards of tea cultivation and processing. Senses, imagination, and thought are constrained by the inadequacy of educational facilities on plantations and the low literacy rates that the plantation environment produces and reproduces. Practical reason is constrained by the denial of meaningful choices about work, residence, and livelihood that the tied housing and employment structure creates. Affiliation is constrained by the social isolation of the plantation community from the broader civic and political life of the state. Control over one's political and material environment is constrained by the effective disenfranchisement of many plantation workers from local governance through residence on private estate land rather than within the boundaries of panchayat jurisdiction.

Each of these capability deficits has a legal dimension and requires a legal response. The failure of bodily health calls for stronger enforcement of pesticide safety regulations and healthcare provision requirements. The failure of bodily integrity calls for stronger enforcement of sexual harassment protections and occupational safety requirements. The failure of educational opportunity calls for stronger enforcement of crèche and school requirements and for investment in educational facilities adequate for the population they serve. The failure of practical reason calls for the structural reforms, particularly in housing security and wage adequacy, that would make genuine freedom of choice possible. The failure of affiliation calls for the extension of local governance mechanisms to plantation communities so that workers have democratic voice in the decisions that shape their community. The failure of control over environment calls for the land reform, union rights, and social security provisions that give workers a genuine stake in and control over their material circumstances.

46.4 Critical Legal Studies and the Tea Sector: Deconstructing the Legitimising Myths of Tea Law

The tradition of critical legal studies, associated in the United States with scholars including Roberto Unger, Duncan Kennedy, and Mark Tushnet, and in the broader international context with the critical race theory and postcolonial legal theory of scholars like Kimberlé Crenshaw, Antony Anghie, and B.S. Chimni, provides a further dimension of the jurisprudential analysis of tea law that this textbook has been building.

Critical legal scholars argue that legal doctrine, despite its apparent neutrality and objectivity, is systematically structured to legitimise and reproduce existing social hierarchies. The neutrality of legal rules, in the critical legal studies view, is an ideological fiction: beneath the formal equality of legal treatment lies a substantive inequality of power that the law not only fails to address but actively reinforces. The market wage, determined by the ostensibly neutral forces of supply and

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demand, reflects the outcome of a historical process of land dispossession, labour coercion, and political disenfranchisement that has systematically reduced the bargaining power of plantation workers relative to estate owners. The formal freedom of contract that governs the employment relationship between an estate worker and the management conceals the substantive unfreedom of a person who has no practical alternative to accepting the offered terms.

Applied to the specific content of tea law, the critical legal analysis reveals how even nominally protective legal frameworks can serve the interests of the powerful. The Plantation Labour Act, celebrated as a landmark of progressive labour legislation in its original formulation, simultaneously imposed welfare obligations on estate owners and legitimised the system of tied welfare provision that made workers dependent on the employer for their basic needs. By encoding the in-kind wage as a recognised form of labour remuneration, the PLA gave legal sanction to an arrangement that, as the critical analyst would note, served the employer's interest in maintaining a captive, controllable workforce as much as it served the worker's interest in adequate welfare provision. The reform of this arrangement requires not merely the technical amendment of specific provisions but a critical rethinking of the foundational premises on which the framework rests.

The postcolonial dimension of this critical analysis is particularly important for the jurisprudence of tea law. As Antony Anghie has argued in "Imperialism, Sovereignty and the Making of International Law" (2004), international law was developed in large part to serve the interests of colonial powers and to legitimise the conquest and exploitation of non-European peoples and territories. The international trade law framework that governs the global tea market, including the SPS Agreement, the TRIPS Agreement, and the architecture of bilateral investment treaties, bears the marks of this colonial inheritance in its structural tendency to protect the interests of capital-exporting and technology-owning countries at the expense of labour-intensive producing countries.

The critical legal response to this inheritance is not simply to denounce international law as irredeemably colonial and to reject it entirely. That would leave producing countries and their workers without the international frameworks they need to assert their rights against the most powerful actors in the global economy. The critical response is to engage with international law strategically, insisting on its progressive potential while exposing and challenging its historical biases, using the tools of international human rights law, the right to development, and the principle of common but differentiated responsibilities to demand a more just distribution of the gains and burdens of the global tea economy.

CHAPTER FORTY-SEVEN: THE FUTURE OF TEA LAW AS A DISCIPLINE: LEGAL EDUCATION, RESEARCH AGENDAS, AND THE INSTITUTIONALISATION OF A FIELD

47.1 Tea Law as an Emerging Academic Field: The Case for Disciplinary Identity

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Throughout this textbook, the case has been made by implication that tea law is a coherent and distinctive field of legal scholarship and practice, not merely the application of general legal principles to a specific industry. In this concluding chapter, the case is made explicitly and the agenda for the development of tea law as an academic discipline is set out.

The criteria for the recognition of a legal field as a discipline, by analogy with the recognition of other specialised legal fields, include the existence of a distinctive subject matter that cannot be adequately addressed by reference to general principles alone, a body of specialised doctrine, an associated community of scholars and practitioners, dedicated institutions including academic journals, professional associations, and training programmes, and a social need for the specialised knowledge and skill that the field offers. Tea law meets all of these criteria, though it meets them unevenly and in different degrees in different jurisdictions.

The subject matter of tea law is distinctive, as the preceding forty-six chapters have demonstrated at length. The combination of colonial legal history, plantation social organisation, agricultural and labour law, environmental regulation, international trade law, intellectual property, and digital technology law that constitutes the field cannot be reduced to any single parent discipline. A lawyer advising on a tea sector dispute needs to draw on doctrinal knowledge from at least five or six of these areas simultaneously, and to understand how they interact in the specific social and economic context of the tea industry. This is not knowledge that general legal education provides, and it is not knowledge that can be assembled on the spot from first principles. It requires sustained study and the accumulation of specialised expertise.

The body of specialised doctrine, while less developed than in established fields like maritime law or banking law, is growing. The judicial decisions on closed tea garden situations, the developing jurisprudence on geographical indications in the Darjeeling tea context, the regulatory frameworks of the Tea Board of India and its equivalents in other producing countries, the collective agreements negotiated in the Assam tea industry, and the emerging body of international supply chain law as applied to tea, all constitute a specialised legal landscape that rewards and requires specialised study. The legal cases and regulatory decisions examined in this textbook represent only a fraction of the material that is available to the specialist, and the growth of this material accelerates as the legal complexity of the sector increases.

The community of tea law scholars and practitioners is small but growing. A number of Indian law schools have begun to develop specific expertise in agricultural and plantation law through their clinical programmes and research centres. The Tea Research Association at Tocklai in Assam, while primarily a scientific institution, has a legal and regulatory advisory dimension that connects agricultural research to legal practice. The International Tea Committee in London provides a forum for the commercial law dimensions of the global tea trade. Development organisations like Oxfam, the Ethical Tea Partnership, and the International Labour Organization have built substantial practical knowledge of the legal issues affecting tea workers that, while not always expressed in academic legal terms, constitutes a valuable resource for the development of the field.

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47.2 Legal Education for Tea Law: Curriculum Development and Pedagogical Innovation

The development of tea law as an academic field requires attention to the curriculum of legal education. The question is not only what law students should learn about tea law but how they should learn it, and at what stage of their legal education.

At the undergraduate level, the most appropriate pedagogical approach is the integration of tea law themes into courses that already cover the relevant parent disciplines. Agricultural law courses can include specific treatment of tea cultivation law, including land tenure, crop insurance, and the regulation of tea boards. Labour law courses can include specific treatment of plantation labour law, including the Plantation Labour Act, the new labour codes, and the international labour standards that apply to the sector. Environmental law courses can include specific treatment of pesticide regulation, water management, and carbon markets in the tea context. Intellectual property courses can include specific treatment of geographical indications, plant breeders' rights, and the Nagoya Protocol as applied to tea genetic resources.

At the postgraduate level, a dedicated course in Tea Law and Policy would provide the opportunity for the integrated treatment of all of these dimensions in a single, cohesive learning experience. Such a course, ideally taught jointly by specialists in labour law, agricultural law, international trade law, environmental law, and intellectual property, would introduce students to the field in its full complexity, develop their ability to move fluidly between doctrinal areas, and equip them to engage with the practical and policy challenges of tea sector legal practice. The course would benefit from a strong clinical component, involving engagement with tea workers, smallholder farmers, and civil society organisations in the tea-growing regions of the state or country in which the law school is located.

The pedagogical methodology for tea law education should be one that develops not only doctrinal knowledge but the critical analytical skills and the ethical commitments that effective tea law practice requires. The case study method, which presents students with complex factual scenarios drawn from real tea sector disputes and requires them to analyse the applicable law and develop practical solutions, is particularly appropriate for this field. The simulation of collective bargaining negotiations, grievance procedures, environmental compliance audits, and international trade dispute resolution processes would develop the practical skills that tea sector practice demands.

47.3 Legal Research in Tea Law: Priority Agendas for Scholarship

The research agenda for tea law is extensive and pressing. Several priority areas stand out as particularly important for the development of the field and for the practical improvement of legal frameworks in the sector.

The first priority area is empirical research on the implementation gap: the gap between the formal legal standards that apply to the tea sector and the substantive conditions that actually prevail on the ground. The extensive body of survey data on wages, working conditions, access

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to welfare facilities, and the exercise of labour rights on tea estates in India, Kenya, Sri Lanka, and other producing countries is an essential foundation for evidence-based legal reform, but it has not been systematically analysed from a legal perspective that identifies specific statutory violations, institutional failures, and enforcement gaps. A systematic legal audit of tea sector compliance with applicable law across the major producing countries, using both primary survey data and documentary analysis of regulatory records and court decisions, would provide an invaluable resource for reformers, advocates, and policymakers.

The second priority area is comparative research on the legal frameworks of different producing countries, examining how different approaches to plantation labour regulation, land tenure, environmental compliance, and technology governance produce different outcomes for workers and farmers. The comparative legal analysis of tea law across India, Sri Lanka, Kenya, and China, situating each country's framework within its specific historical, political, and institutional context, would illuminate the range of options available to reformers and the conditions under which different approaches have succeeded or failed.

The third priority area is interdisciplinary research connecting legal analysis to the social science literatures on plantation labour, commodity markets, global value chains, and gender and development. The existing social science literature on the tea sector, including the work of scholars cited in the bibliography of this textbook, provides empirical foundations that legal analysis has been too slow to engage. Conversely, legal analysis can provide normative frameworks and institutional analysis that social scientists have sometimes lacked. The development of research collaborations between law schools and social science departments, including economics, sociology, anthropology, and political science, would strengthen both the empirical grounding of legal scholarship and the normative orientation of social science research in the tea sector.

The fourth priority area is doctrinal research on the emerging areas of tea law where the existing framework is inadequate or absent. The law of algorithmic labour management in the plantation context, the application of supply chain due diligence law to the tea sector, the legal framework for carbon credit generation from tea estate agroforestry, the intellectual property dimensions of AI-generated tea cultivar innovations, and the constitutional law of closed tea garden situations are all areas where the doctrine is at an early stage and where careful legal scholarship could significantly advance the state of the law.

47.4 Professional Associations and the Institutionalisation of Tea Law Practice

The development of tea law as a practised legal specialty requires institutional infrastructure beyond the academy. Professional associations of tea law practitioners, continuing legal education programmes with specific tea law content, and specialised dispute resolution mechanisms designed for the tea sector are all elements of the institutional ecosystem that a mature legal specialty requires.

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The model of the Agricultural Law Association, which exists in various forms in the United Kingdom, the United States, and some Commonwealth jurisdictions, provides a template for a Tea Law Practitioners' Association that could bring together lawyers working in the labour, environmental, trade, intellectual property, and agricultural dimensions of the tea sector. Such an association could develop and maintain specific practice standards for tea law, provide a forum for the sharing of knowledge and experience among practitioners, and engage with the legislative and regulatory processes that shape the legal framework of the sector.

Continuing legal education in tea law is an immediate practical need. As the preceding chapters have documented, the legal landscape of the tea sector is changing rapidly, with the implementation of the new Indian labour codes, the development of EU supply chain legislation, the emergence of AI and digital technology governance issues, and the evolution of environmental and climate law all creating new legal challenges that practitioners need to understand and address. The development of a comprehensive CPD programme for tea law practitioners, combining updates on legislative and regulatory developments with deeper treatment of specific doctrinal areas, would serve the practical needs of the legal community and contribute to the quality of legal services available to clients in the sector.

47.5 International Legal Networks and the Global Development of Tea Law

Tea is a global industry, and the legal issues it raises are international in character. The development of tea law as a field requires international legal networks that can facilitate the exchange of knowledge, the development of comparative expertise, and the coordination of advocacy on international legal frameworks. Several such networks are possible and desirable.

An international research network on tea law and policy, bringing together scholars from law schools in India, Sri Lanka, Kenya, China, Japan, the UK, and the EU, would create the intellectual infrastructure for sustained comparative research and would provide a forum for the development of a genuinely international tea law scholarship that transcends the national legal frameworks within which most current scholarship is conducted. Such a network could be anchored in an existing academic institution, such as the International Institute for Labour Studies in Geneva or the Institute for Development Studies at Sussex, or could be constituted as an independent academic consortium.

An international practitioner network, connecting lawyers working in plantation labour law, agricultural trade law, environmental law, and supply chain compliance in the major producing and consuming countries, would facilitate the sharing of practical knowledge about developments in legislation, regulation, and case law that affect the global tea supply chain. Such a network would be particularly valuable for practitioners in developing country producing jurisdictions who often lack access to the legal research resources available to their counterparts in the EU and North America.

A policy advocacy network, connecting the legal community with the civil society organisations, trade unions, and farmer associations that advocate for the rights of tea workers and smallholder

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farmers in international forums including the ILO, the WTO, the FAO, and the United Nations Human Rights Council, would strengthen the legal dimension of international advocacy on tea sector issues and contribute to the development of international legal frameworks that better reflect the interests of the sector's most vulnerable participants.

CHAPTER FORTY-EIGHT: CONTROVERSIES, PERSISTENT TENSIONS, AND UNRESOLVED DEBATES IN TEA LAW

48.1 The Wage versus Welfare Debate: A Colonial Dispute Unresolved

No controversy in tea law is more persistent, more practically consequential, or more deeply rooted in the colonial architecture of the sector than the debate over whether plantation workers should receive higher cash wages or whether the in-kind welfare provision of housing, rations, and healthcare should be treated as an adequate substitute for cash income. The debate is not merely technical: it reflects irreconcilable positions on the nature of the employment relationship, the appropriate role of the employer in the worker's community life, and the meaning of dignity and autonomy in conditions of structural dependency.

The wage advocates, whose position is associated with the Indian National Trade Union Congress and CITU's demands in Assam, argue that cash wages are the only form of remuneration that preserves workers' autonomy and dignity. A worker paid in cash can choose how to allocate their income, including whether to buy the goods and services that the estate provides in kind or to seek alternatives in the market. A worker paid partly in housing and rations has no such choice: they must accept the employer's provision of housing at the employer's standard of quality, the employer's ration at the employer's quantity, and the employer's medical care at the employer's level of competence. The in-kind wage is therefore, the argument goes, an instrument of control as much as an instrument of welfare.

The welfare advocates, whose position is associated with some estate management organisations and with the policy tradition embedded in the Plantation Labour Act, argue that in a context of extreme poverty and market failure, the provision of guaranteed in-kind welfare is more reliable and more immediately valuable than the equivalent cash income would be. A worker who receives housing in kind does not face the risk of being unable to afford housing in a market where adequate affordable housing may simply not exist in the remote plantation area. A worker who receives medical care in kind does not face the risk of a healthcare emergency that consumes cash savings. The in-kind provision, in this view, provides a floor of security that cash income alone cannot guarantee in conditions of rural poverty and weak market infrastructure.

Both sides of this debate have genuine insights. The truth is that the dichotomy between wages and welfare is itself a product of the colonial legal architecture that was specifically designed to make them alternatives rather than complements. In an employment relationship governed by genuinely fair law, workers would receive cash wages sufficient to afford adequate housing,

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food, healthcare, and education in a competitive market, and the state would provide the public infrastructure (schools, clinics, housing) that the market cannot adequately supply in remote rural areas. The plantation system's substitution of employer welfare for both adequate wages and state infrastructure is a peculiarity born of the colonial political economy that the post-colonial legal system has perpetuated rather than transcended.

The legal reform conclusion is not that in-kind welfare should be abolished (which, in the absence of adequate market alternatives and state provision, would simply impoverish workers further) but that it should be progressively supplemented, not substituted for, adequate cash wages, while the state invests in the public infrastructure that will eventually make the in-kind provision of the estate redundant.

48.2 The Smallholder versus Estate Debate: Competing Visions of Tea Agriculture's Future

A second persistent controversy in tea law concerns the future structure of tea agriculture and the legal frameworks appropriate to each model. The estate model, in which large corporate or family-owned plantations produce tea using a combination of permanent and casual labour under unified management, has dominated legal frameworks in South Asia since the colonial period. The smallholder model, in which individual farm families cultivate tea on relatively small plots and sell their green leaf to processing factories, now accounts for the majority of production in Kenya and a rapidly growing share of production in India and Sri Lanka.

The legal frameworks governing these two models are significantly different, and the interaction between them creates legal tensions and gaps. Estate workers are covered by the Plantation Labour Act and the industrial relations codes. Smallholder farmers are not workers in the legal sense: they are independent producers engaged in a commercial relationship with the factories that buy their leaf. Their legal protection comes not from labour law but from agricultural marketing law, contract law, and cooperative law, frameworks that provide significantly less comprehensive protection than the labour law applicable to estate workers.

The question of whether smallholder tea farmers should be given legal protections that more closely approximate those available to estate workers, including minimum price guarantees, fair contracting requirements, dispute resolution mechanisms, and access to social security, is one of the most important unresolved questions in contemporary tea law. The Kenya Tea Development Agency model, under which smallholder farmers are organised through a statutory agency that provides inputs, processing, and marketing services in a vertically integrated cooperative structure, represents one legal approach to the protection of smallholder interests. The Indian model of small tea grower cooperatives, supported by the Tea Board through various schemes, represents another.

Neither model is fully satisfactory, and the legal analysis of their strengths and weaknesses is an important area for ongoing scholarship and policy development. The smallholder farmer's vulnerability to monopsonistic buying power by the handful of companies that operate the processing factories, to price manipulation in the leaf market, and to the imposition of quality

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standards as a mechanism of price reduction, requires legal responses that go beyond the existing frameworks of market regulation and cooperative law. The development of mandatory fair pricing mechanisms for green leaf, analogous to the statutory price support mechanisms that exist for some other agricultural commodities, is one legislative option that has been debated without being adopted in most producing countries.

48.3 The Sustainability Certification Debate: Private Ordering versus Public Regulation

The proliferation of sustainability certification schemes in the global tea market, including the Rainforest Alliance, Fairtrade, UTZ Certified, and the Ethical Tea Partnership's own monitoring standards, represents a form of private regulation that has been both influential and controversial. These schemes, developed by non-governmental organisations in collaboration with commercial actors in the tea supply chain, use market mechanisms to incentivise improved labour and environmental practices by conditioning access to premium-priced markets on compliance with independently audited standards.

The sustainability certification debate in tea law has several dimensions. The first is the question of effectiveness: do sustainability certification schemes actually improve the lives of tea workers and the environmental sustainability of tea cultivation, or do they primarily serve the reputational interests of certified companies without generating substantive benefits for workers and farmers? The evidence on this question is mixed and contested, with some studies finding significant improvements in specific welfare indicators on certified estates and others finding that the benefits are marginal or captured primarily by estate owners and certification bodies rather than by workers.

The second dimension is the relationship between private certification and public regulation. Where private certification standards are stronger than domestic legal requirements, they can provide a floor of protection that supplements inadequate state regulation. But they can also create a two-tier market in which workers on certified estates are relatively well treated while workers on non-certified estates supplying the domestic market face unmitigated exploitation. The development of a complementary relationship between private certification and public regulation, in which certification standards inform and raise domestic legal requirements rather than substituting for them, is an important policy objective that has been discussed in the tea policy community but not yet achieved.

The third dimension is the democratic legitimacy of private standard-setting. Sustainability certification standards are developed by organisations that are not democratically elected and not legally accountable to the workers and farmers whose practices they regulate. The participation of worker and farmer representatives in the governance of certification schemes is variable, and the power dynamics within standard-setting bodies tend to favour the interests of the commercial actors who fund the schemes and whose market relationships are governed by the standards. A critical legal analysis of sustainability certification as a form of private governance, drawing on the theory of administrative law and the concept of accountability in regulatory systems, reveals

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significant gaps in the democratic legitimacy and legal accountability of these powerful instruments of private regulation.

CHAPTER FORTY-NINE: THE PROTOCOL FOR A JUST TEA LAW: A FRAMEWORK FOR THE TWENTY-FIRST CENTURY

49.1 Principles for a Reformed Tea Law

Drawing together the philosophical, historical, doctrinal, and empirical analysis of the preceding chapters, it is possible to articulate a set of principles for a reformed tea law adequate to the challenges of the twenty-first century. These principles are offered not as a legislative blueprint but as normative guideposts that should inform the development of law and policy in the sector.

The first principle is the principle of dignified labour. Every person who labours in the tea sector, whether as a permanent estate worker, a casual plucker, a smallholder farmer, a factory employee, or a transport worker, is entitled to be treated with dignity and to receive remuneration and working conditions consistent with a dignified human life. This principle, grounded in the constitutional provisions of the producing countries, the Universal Declaration of Human Rights, and the philosophical traditions of Kant, Sen, and Nussbaum, requires that the legal framework ensure not merely the formal recognition of rights but the substantive conditions in which those rights can actually be exercised.

The second principle is the principle of substantive equality. The formal equality of the law must be supplemented by substantive attention to the structural inequalities of gender, caste, ethnicity, and employment status that produce systematically different outcomes for different groups within the tea sector workforce. Legal reforms must be assessed not only by their formal content but by their distributive implications for the most disadvantaged groups, particularly women workers, Scheduled Tribe and Scheduled Caste workers, temporary and casual workers, and smallholder farmers.

The third principle is the principle of democratic voice. Workers and smallholder farmers must have genuine, effective voice in the legal and institutional processes that determine the conditions of their working lives. This means not only formal trade union rights but the substantive protections against retaliation, the access to information, and the institutional structures that make the exercise of those rights practically feasible. It means that legislative processes governing plantation labour should involve genuine tripartite consultation, not the choreographed spectacle of consultation that produces legislation already determined without worker input.

The fourth principle is the principle of ecological responsibility. The tea industry's use of land, water, soil, and biodiversity creates obligations to present and future generations that the law must enforce. The externalities of unsustainable agriculture, including pesticide pollution, soil

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degradation, deforestation, and greenhouse gas emissions, are not merely technical environmental problems: they are matters of justice toward the communities, species, and future generations who bear the costs of production that the market price of tea does not reflect.

The fifth principle is the principle of international solidarity. The justice of the tea economy requires not only domestic law reform but international cooperation to address the structural asymmetries of the global market. Tea-producing countries have the right to fair terms of trade, including protection from price crashes driven by oversupply, fair compensation for the environmental services their ecosystems provide, and a share of the intellectual property value generated by the use of their genetic resources and traditional knowledge. International institutions, including the ILO, the WTO, the FAO, and the UN Human Rights system, must be engaged and reformed as necessary to make the international governance of tea fair.

The sixth principle is the principle of adaptive governance. The legal framework of the tea sector must be designed to adapt to changing circumstances, including the rapid technological transformation of the industry, the progressive impacts of climate change on tea cultivation, and the evolution of international regulatory standards. This requires not only specific statutory provisions but the development of regulatory institutions with adequate expertise, independence, and resources to monitor developments, identify emerging legal issues, and develop regulatory responses without waiting for the slow processes of parliamentary legislation.

49.2 An Agenda for Legal Reform in the Tea Sector: Specific Recommendations

The following reform agenda is offered as a synthesis of the analysis of this textbook, organised under the headings of the major areas of tea law examined.

In the area of plantation labour law, the priority reforms are: first, the separation of cash wages from in-kind welfare provision and the progressive raising of cash wages to living wage levels; second, the extension of the full protection of the labour codes to temporary and casual workers, with equivalent rights to permanency and social security where employment continues above a defined threshold; third, the mandatory settlement of land titles jointly in the names of both spouses in the context of the Assam and West Bengal patta reforms; fourth, the genuine enforcement of welfare facility requirements through regular independent inspection with significant penalties for non-compliance; and fifth, the protection of workers from retaliation for the exercise of trade union rights through rapid remediation mechanisms and protection of employment and housing pending the resolution of disputes.

In the area of smallholder tea law, the priority reforms are: first, the development of mandatory minimum pricing mechanisms for green leaf that ensure smallholder farmers receive a fair share of the value their leaf contributes to finished tea; second, the strengthening of farmer cooperatives and producer organisations as legal entities with the capacity to engage in collective bargaining with the companies that buy their leaf; third, the extension of social security coverage to smallholder tea farmers through universal or targeted schemes that provide health, maternity, and old age protection; and fourth, the development of legal frameworks for farmer participation

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in carbon markets and other ecosystem service markets that are accessible to smallholders without prohibitive transaction costs.

In the area of environmental law, the priority reforms are: first, the adoption of specific regulations governing the use of pesticides in tea cultivation, including mandatory buffer zones around water sources, mandatory protective equipment for workers, and mandatory residue monitoring of water sources and soil; second, the integration of tea cultivation into the legal framework for climate adaptation, including recognition of the role of shade trees and agroforestry in the tea sector's adaptation to climate change and the development of legal frameworks for the co-management of tea landscapes as carbon sinks; third, the development of specific provisions for the recognition and compensation of traditional knowledge contributions to tea sector innovation under the Biological Diversity Act framework; and fourth, the strengthening of environmental impact assessment requirements for the development of new tea cultivation areas, with specific provisions for the assessment of impacts on indigenous communities and their customary land rights.

In the area of intellectual property law, the priority reforms are: first, the strengthening of the geographical indications framework for Indian teas, including better enforcement of GI certification marks and the development of fair and transparent governance structures for GI producer groups that ensure smallholder farmers benefit from GI protection; second, the development of clear legal frameworks for the ownership and benefit sharing of AI-generated innovations in tea cultivar development and processing technology; third, the implementation of robust benefit-sharing agreements under the Nagoya Protocol for research programmes that access Indian tea genetic resources; and fourth, the adoption of specific rules governing the use of trade secrets in tea blending that address the interface between proprietary blending formula protection and the traditional knowledge claims of tea-growing communities.

In the area of technology law, the priority reforms are: first, the adoption of specific data protection regulations governing the use of biometric and location data in plantation labour management systems, based on the principles developed in the Digital Personal Data Protection Act 2023 but with specific application to the plantation employment context; second, the development of specific legal standards for the use of AI quality assessment systems in tea grading and export certification, including requirements for transparency, accuracy documentation, and human oversight; third, the regulation of drone use in tea estates to protect workers' privacy and to ensure that the data collected by drone monitoring systems is not used in ways that unfairly penalise workers; and fourth, the development of specific legal frameworks for robot deployment in tea harvesting that address the retrenchment rights and retraining obligations of employers who introduce robotic harvesting systems.

In the area of access to justice, the priority reforms are: first, the expansion and reform of the legal services authority system to provide genuinely effective, linguistically accessible, and specialist legal representation to tea sector workers and farmers; second, the development of a network of community paralegals trained in tea labour and agricultural law to extend legal knowledge and initial legal advice to plantation communities; third, the establishment of tea

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sector-specific dispute resolution mechanisms, including specialised labour courts and mediation services with expertise in plantation labour issues; and fourth, the development of whistleblower protection provisions specifically applicable to the plantation and agricultural sector, protecting workers who report violations of labour, environmental, or food safety law from retaliation.

CONCLUSION TO PART FIVE AND THE TEXTBOOK: THE LAW OF THE LEAF AND THE JUSTICE OF THE CUP

In the opening pages of this textbook, we observed that law does not grow in a vacuum. It grows, like the tea plant itself, from specific soils, under specific pressures, tended by specific hands and shaped by the interests of those who control the land, the labour, and the leaf. We have now traversed the full span of that legal landscape, from the ancient Tang Dynasty regulation of the tea trade in seventh-century China, through the colonial legal architecture of coercion and extraction that gave modern tea law its foundational structure, to the digital frontier of AI-powered quality grading and robotic harvesting that is reshaping the industry in the twenty-first century.

What have we learned from this journey? We have learned that law is not a neutral arbiter of competing interests: it is a field of power, shaped by historical forces, political interests, and ideological commitments that leave their marks on every statute, every judicial decision, and every regulatory framework. The Inland Emigration Act of 1882 was not a neutral regulation of labour mobility: it was an instrument of coercion designed to serve the interests of plantation capital. The wage structure that pays Assam's tea pluckers 232 rupees a day is not the product of neutral market forces: it is the product of a legal and institutional framework that has persistently treated plantation workers as a special category of labour to whom the general standards of dignified employment need not apply.

We have also learned that law is not merely a field of power: it is a field of struggle. The Chargola Exodus of 1921 challenged the colonial plantation system with the bodies and the determination of thousands of workers who had decided, at enormous personal risk, that freedom was worth more than the security of their bondage. The trade union struggles of the twentieth century, the women workers who organised against sexual harassment and wage discrimination, the farmers who formed cooperatives to resist the monopsony power of the buyers of their leaf, the indigenous communities who insisted on their customary rights to the forests that plantation expansion threatened: all of these are part of the legal history of tea, as surely as the Acts of Parliament and the judicial decisions that constitute the formal legal record.

And we have learned, perhaps most importantly, that justice in the tea sector requires more than legal reform. It requires a fundamental rethinking of the distributive structure of the global tea economy: who owns the land, who owns the intellectual property, who captures the value generated by the combined labour of millions of workers and the accumulated knowledge of generations of farmers, and who bears the costs of the environmental impacts of production.

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Legal reform is an essential instrument of this rethinking, but it is not sufficient by itself. It must be accompanied by political will, adequate resources, institutional capacity, and a sustained moral commitment to the dignity of the people whose labour produces the world's most widely consumed agricultural beverage.

The jurisprudence of a just tea economy is, ultimately, a jurisprudence of recognition: recognition that the tea worker is a person, not an instrument of production; recognition that the smallholder farmer is an agent, not a passive recipient of the market's determinations; recognition that the indigenous community whose forests were cleared for tea cultivation has rights that have never been extinguished by the legal fictions of colonial waste land doctrine; recognition that the future generations who will inherit the soil, the climate, and the ecosystems that we are managing today have claims upon our legal and political decision-making that we cannot defer indefinitely.

This textbook has tried to equip the student, the practitioner, the policymaker, and the engaged citizen with the knowledge and the analytical tools to participate in the development of that jurisprudence. The field of tea law is young, contested, and incomplete. The work of making it adequate to the justice demands it faces has barely begun. But the conversation has started, and this text has sought to make a contribution to it that is worthy of the men, women, and children whose lives are shaped by the law of the leaf.

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End of Part Five

This concludes "The Law of the Leaf: A Comprehensive Treatise on Tea Agriculture, Labour, Rights, Practitioners, and Governance."

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This completes Part Five of "The Law of the Leaf." It covers eight substantive chapters and a full concluding synthesis, working across reform agendas, international institutions, supply chain due diligence law, access to justice, gender justice, constitutional dimensions, jurisprudential philosophy (drawing on Rawls, Sen, Nussbaum, and the critical legal tradition), and the future of tea law as a discipline, incorporating the latest 2024 to 2026 developments including the Assam Land Patta Act 2025, India's new Labour Codes implementation in November 2025, the EU Forced Labour Regulation of December 2024, the EU Corporate Sustainability Due Diligence Directive of June 2024, and current wage data from the Ethical Tea Partnership's 2025 India report.

SUPPLEMENTARY PART: URGENT FRONTIERS IN TEA LAW: THE TRADE WAR, REGULATORY REPEAL, KENYAN REVOLUTION, CLIMATE CRISIS, AND THE JURISPRUDENCE OF DISRUPTION (2024 TO 2026)

FOREWORD TO THE SUPPLEMENTARY PART

The world moves faster than any textbook can. What was prospective analysis in the pages of Part Five, written in careful conditional tense about developments that were imminent or anticipated, has in the short interval since become present fact. The Plantation Labour Act of 1951, the foundational statute of Indian tea labour law since independence, has been repealed, a development so momentous in the field that it demands the full analysis this supplementary part undertakes. A tariff war of extraordinary ferocity has reshaped the global trade architecture through which tea moves from the fields of Asia and Africa to the teacups of North America, Europe, and the rest of the world, raising legal questions of WTO compatibility, treaty obligation, supply chain liability, and sovereign immunity that the trade law literature is only beginning to address. Kenya has enacted the Tea (Registration and Licensing) Regulations 2026 and the Tea (Levy) Regulations 2026, the most comprehensive overhaul of that country's tea regulatory framework in a generation, accompanied by parliamentary investigations into corruption and cartelisation at the Kenya Tea Development Agency that have shaken the industry's governance to its foundations. Sri Lanka's new President Anura Kumara Dissanayake has announced significant wage increases for estate workers in the 2026 budget, in a political context of labour union mobilisation and the continuing legal limbo of Tamil estate workers' citizenship and social security rights. Climate disruption is accelerating, with extreme weather events exposing the fragility of tea landscapes in Sri Lanka, the Nilgiris, and the Himalayan foothills with unprecedented severity. And across the producing world, the tension between the formal equality of new labour codes and the substantive inequality of plantation conditions is generating new forms of labour unrest, new constitutional litigation, and new demands on the institutions of legal education and legal advocacy.

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This supplementary part addresses all of these developments with the same combination of doctrinal analysis, jurisprudential depth, historical context, and practical engagement that has characterised the preceding five parts of the textbook. It is organised around ten major themes, each of which represents a frontier of tea law where the scholarship is urgently needed, the doctrine is inadequate, and the human stakes are very high.

CHAPTER FIFTY: THE REPEAL OF THE PLANTATION LABOUR ACT 1951: LEGAL CONSEQUENCES AND THE JURISPRUDENCE OF LEGISLATIVE DESTRUCTION

50.1 The End of an Era: Understanding What Was Lost

On 11 December 2025, the Plantation Labour Act of 1951 was formally repealed as part of the consolidation of India's labour laws into the four new codes. The significance of this event for the jurisprudence of tea law is difficult to overstate. The Plantation Labour Act was not merely a statute. It was, as the preceding chapters of this textbook have documented at length, the foundational legal architecture of the plantation worker's social world, the legal instrument through which the state acknowledged the uniquely total character of the employer's control over the plantation community and imposed upon the employer a corresponding set of total welfare obligations. Its repeal, even where its substantive provisions are notionally preserved in the Occupational Safety, Health and Working Conditions Code 2020, marks a categorical shift in the legal theory underlying the regulation of plantation labour from a model of the plantation as a special social institution to a model of the plantation as simply another workplace governed by general industrial law.

To understand what was lost in the repeal, it is necessary to understand what the PLA represented in the architecture of Indian welfare state thinking. The Act was passed in 1951, four years after independence, in a period of intense legislative creativity when the Indian state was attempting to construct, simultaneously, a constitutional framework, a planned economy, and a welfare state that could address the worst legacies of colonial exploitation. The PLA was drafted in the knowledge that the plantation system, particularly in Assam, was a system of almost total employer control over the physical and social environment of the workforce. Workers lived in employer-provided housing. They bought from employer-provided ration shops. Their children studied in employer-provided schools. They received medical treatment from employer-provided clinics. Their community's physical infrastructure, including roads, drains, water supply, and electricity, was provided and maintained by the employer. In this context, the PLA's imposition of specific, non-negotiable, legally enforceable obligations on employers to provide housing, medical care, crèches, canteens, schools, and recreational facilities was not a welfare state concession. It was a recognition that where the employer has assumed total control over the worker's environment, the employer must bear total responsibility for the quality of that environment.

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This philosophical underpinning is precisely what the subsumption of the PLA into the OSHWC Code threatens to dissolve. The OSHWC Code is a general occupational safety and health law that applies across industries. Its provisions for welfare facilities, while they preserve many of the specific requirements of the PLA, are situated within a regulatory framework whose primary conceptual orientation is toward the individual workplace and the individual worker's exposure to specific occupational hazards rather than toward the community of workers and their dependants as the subject of a comprehensive welfare obligation. The distinction is not merely conceptual. It has practical enforcement implications. An occupational safety and health inspector assessing compliance with crèche requirements will evaluate whether a crèche facility exists and meets the specified physical standards. A plantation labour welfare officer operating under the PLA framework would evaluate whether the crèche is adequate for the community of women workers and their children, taking into account the total social context of the plantation settlement. The former is a checklist inspection. The latter is a community welfare assessment. The PLA's enforcement architecture, imperfect as it was in practice, was designed for the latter. The OSHWC Code's architecture is designed for the former.

The legal challenge for practitioners in the post-PLA period is to argue, wherever possible before labour courts, high courts, and the Supreme Court, that the constitutional obligations of the Indian state toward plantation workers are not diminished by the repeal of the PLA, and that the OSHWC Code must be interpreted and enforced in a manner that preserves, and indeed enhances, the substantive welfare protections that the PLA provided. This argument has a solid constitutional foundation in the directive principles of state policy, particularly Articles 38, 39, 41, and 43, as discussed in Chapter 45 of this textbook, and in the right to life jurisprudence of Article 21. The repeal of a statute does not repeal the constitutional obligations that the statute was enacted to fulfil. Where the replacement framework falls short of those obligations, it is subject to constitutional challenge.

50.2 Coverage Gaps in the Post-PLA Framework

The repeal of the PLA and its replacement by the OSHWC Code creates specific coverage gaps that require immediate attention from legal practitioners, trade unions, and policy advocates. Three coverage gaps are of particular concern.

The first gap concerns the definition of the covered workforce. The PLA applied to all plantations over five hectares in extent, regardless of the number of workers employed. Its welfare provisions were triggered by the existence of the plantation as a physical and economic entity rather than by the employer's size or workforce count. The OSHWC Code operates on workforce size thresholds that, in some of its provisions, exclude smaller plantations from the full range of welfare obligations. This threshold-based approach to coverage is appropriate in the general industrial context, where the welfare obligations of a small enterprise cannot reasonably be equated with those of a large corporation. But in the plantation context, a small tea estate with fifty workers is not a small enterprise in the relevant sense: it is a community of fifty workers and their families living in a socially and geographically isolated environment that requires the same basic infrastructure of housing, healthcare, and education regardless of the employer's size.

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A coverage framework that ties welfare obligations to the number of employees rather than to the social character of the plantation as a community leaves smaller estates' workers in a legal limbo that the PLA was specifically designed to avoid.

The second gap concerns the treatment of temporary and casual workers. The PLA's welfare provisions extended in significant measure to all workers on the plantation, not only to permanent workers. The OSHWC Code's provisions are in many respects tied to the employment status of the worker, creating a distinction between permanent workers who are entitled to the full range of welfare facilities and temporary or casual workers who may have access only to a subset of those facilities. In the tea sector, as the preceding chapters have documented, the casual and temporary workforce is large, constitutes a disproportionate share of the total workforce in some producing regions, and is concentrated among women. A post-PLA framework that narrows welfare entitlements to permanent workers effectively disenfranchises the most vulnerable segment of the plantation workforce.

The third gap, perhaps the most practically significant, concerns the family members of workers. The PLA's welfare provisions expressly extended to the families of plantation workers. Crèches were required for the children of women workers. Schools were required for the children of all plantation workers. Medical facilities were required for the families of workers. The recognition that the plantation employer's welfare obligations extend beyond the individual worker to their family was a crucial feature of the PLA's philosophy, reflecting the understanding that the plantation is a social community rather than merely a production unit. The OSHWC Code's welfare provisions are framed primarily around the individual worker rather than the worker's family, creating the risk that in practice the scope of the employer's welfare obligations is progressively narrowed to exclude the family dimension that the PLA had explicitly included.

The monitoring of these coverage gaps, the documentation of cases where workers have been denied welfare entitlements that the PLA would have guaranteed, and the development of legal strategies to challenge coverage denials through administrative and judicial mechanisms, constitutes the most urgent practical legal task in the post-PLA period. Legal aid organisations, trade unions, and law school clinics working in the plantation sector need to develop specific expertise in the transitional legal landscape, mapping the differences between the PLA and the OSHWC Code provision by provision and identifying the leverage points through which PLA-level standards can be argued to be constitutionally mandated even in the new legislative framework.

50.3 The Doctrine of Non-Regression in Labour Law and Its Application to the PLA Repeal

The question of whether the Indian state's repeal of the Plantation Labour Act, even if accompanied by nominally equivalent provisions in the new codes, violates a principle of non-regression in labour law is one of the most interesting and currently underexplored questions in Indian constitutional and labour law jurisprudence. The principle of non-regression, or the standstill principle as it is sometimes described in international social rights doctrine, holds that

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once a state has achieved a certain level of social rights protection through legislation, it may not regress to a lower level of protection without compelling justification consistent with its constitutional and international human rights obligations.

The principle of non-regression has its most developed expression in international law through the jurisprudence of the UN Committee on Economic, Social and Cultural Rights, which has consistently held that under the International Covenant on Economic, Social and Cultural Rights (to which India is a party), states must not take deliberately retrogressive measures that reduce the enjoyment of economic, social, and cultural rights without the most careful consideration of all alternatives and without convincing justification that the retrogression is necessary and proportionate. The Committee has applied this principle to labour rights, including the right to just and favourable conditions of work under Article 7 of the ICESCR, and has held that legislative changes that reduce the standard of protection for workers are presumptively incompatible with the ICESCR unless justified by compelling economic necessity.

The application of this international law principle in the domestic constitutional context is mediated by the status of the ICESCR in Indian law. India's courts have not always been receptive to direct invocation of international treaty obligations as a source of judicially enforceable rights, but they have been willing to use international law as a tool of constitutional interpretation under the principle, affirmed in Vishaka v. State of Rajasthan (1997) and subsequent cases, that domestic law must be interpreted consistently with international obligations where possible. The principle of non-regression, applied through this interpretive lens, provides a constitutional argument that the OSHWC Code must be interpreted and enforced at the level of the PLA's standards rather than at a potentially lower level, and that any regulatory interpretation or administrative practice that falls below the PLA standard is constitutionally suspect.

The practical force of the non-regression argument depends on its reception by courts that are required to assess both the abstract constitutional principle and the concrete impact of the legislative change on the workers concerned. The development of detailed empirical evidence about the post-repeal deterioration of welfare standards, if such deterioration occurs as practitioners and academics fear it will, would be an important input into the constitutional litigation that the non-regression argument would require. The Building a stronger legal case for non-regression in the tea plantation context is an important research and advocacy agenda for the immediate future.

CHAPTER FIFTY-ONE: THE UNITED STATES TARIFF WAR AND THE LEGAL ARCHITECTURE OF DISRUPTED TEA TRADE

51.1 The Tariff Shock of 2025: An Unprecedented Legal and Commercial Disruption

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The decision of the Trump administration, beginning in February 2025 and accelerating through the spring of that year, to impose sweeping import tariffs on goods entering the United States from virtually all trading partners represents, in its impact on the global tea trade, one of the most significant disruptions to the international legal architecture of agricultural commodity commerce since the collapse of the Bretton Woods system in the early 1970s. For the tea industry specifically, the tariff shock of 2025 has created a legal landscape of extraordinary complexity, touching simultaneously upon WTO law, domestic trade remedy law, private commercial contract law, and the nascent body of supply chain liability law that Part Five of this textbook examined.

The basic facts of the tariff situation as it affects tea require careful statement because the position has changed with sometimes hourly frequency during the most acute phases of the trade dispute. As of April 2025, the United States enacted broad-based additional duties on imports under executive orders framed in terms of trade reciprocity and the elimination of trade imbalances. Chinese tea, already subject to a 17.5 percent country-of-origin tariff from the first weeks of the second Trump administration, was subjected to escalating tariffs that ultimately reached 145 percent by April 9, 2025, following a reciprocal escalation with China's own retaliatory duties. Tea from India, Sri Lanka, Japan, and Argentina faced a universal tariff of 10 percent, with higher proposed reciprocal tariffs of 52 percent for India, 88 percent for Sri Lanka, and 46 percent for Japan threatened for implementation in July 2025 following the conclusion of a 90-day pause on reciprocal tariffs that the administration announced on April 9. Kenya, under the African Growth and Opportunity Act framework that gives beneficiary sub-Saharan African countries preferential access to the US market, faced a significantly more favourable tariff environment of 10 percent, giving Kenyan tea a competitive advantage in the US market relative to its South Asian and East Asian competitors.

The scale of the disruption is captured in the market data. The United States imported approximately 578 million US dollars of tea in 2024, making it the world's second-largest tea importer. Of this import, the top five suppliers were Japan at 107 million dollars, India at 65.1 million dollars, Argentina at 57.9 million dollars, China at 55.5 million dollars, and Sri Lanka at 46.7 million dollars. The tariff structure that took effect from April 2025 imposed an estimated average additional duty burden of 21.9 percent across US tea imports, with the burden falling particularly severely on Chinese origin teas (which at a 145 percent tariff are effectively priced out of the US market for all but the most specialised and high-value products) and significantly on Indian and Sri Lankan teas (which at the 10 percent base tariff face a meaningful cost increase and at the threatened 52 and 88 percent levels would face market-effective exclusion). The National Retail Federation and consulting firm Hackett Associates estimated that US tea imports would decline by 20 percent in the second half of 2025, for a net annual decline of approximately 15 percent, unless the trade situation changed.

The legal analysis of this situation requires examination at three levels: the international law of trade, the domestic law of the producing countries affected, and the private law of the commercial contracts through which the tariff costs are allocated between buyers and sellers in the tea supply chain.

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51.2 WTO Compatibility of the US Tariff Regime: GATT Article II, the National Security Exception, and Procedural Legitimacy

The WTO legal framework governing the imposition of tariffs is, in principle, clear. Under Article II of the General Agreement on Tariffs and Trade, members are bound by their tariff schedules, which specify the maximum tariff rates applicable to goods from other WTO members. The United States' tariff schedule for most tea products (HS codes 0902.10, 0902.20, 0902.30, and 0902.40) specifies a bound rate of zero, meaning that in the WTO framework the United States has committed to admit most tea products duty-free. The additional tariffs imposed through executive orders in 2025, ranging from 10 percent to 145 percent, are therefore, prima facie, incompatible with the United States' WTO tariff commitments.

The Trump administration has sought to justify the tariff programme through a combination of legal authorities. The most frequently invoked authority is Section 232 of the Trade Expansion Act of 1962, which allows the President to impose tariffs on national security grounds following an investigation by the Department of Commerce. A second authority is Section 301 of the Trade Act of 1974, which authorises tariffs as a response to foreign trade practices that are unjustifiable, unreasonable, or discriminatory and that burden or restrict US commerce. A third authority, novel and legally contested, is the claim of inherent executive authority over trade policy, rooted in the constitutional vesting of executive power and the foreign affairs power in the President.

The national security justification for tariffs on tea is, to put it charitably, strained. Tea is not a product with obvious national security significance, and the argument that the US has a national security interest in the protection of its domestic tea production capacity (which meets less than 3 percent of domestic demand and which no serious analyst believes can be significantly expanded in the short or medium term) is implausible even under the permissive interpretation of the national security exception in GATT Article XXI that the WTO Appellate Body has articulated in cases including Russia in the context of traffic in transit with Ukraine (DS512, 2019). The WTO Appellate Body's approach to the national security exception, while affording members substantial self-judging discretion, requires that the security interest cited be not implausible on its face and that the measures taken bear a plausible relationship to the security objective. The relationship between 145 percent tariffs on Chinese tea and any conceivable national security objective of the United States is, by this standard, difficult to sustain.

This does not mean that the US tariff programme is legally inconsequential or that producing countries have effective legal remedies within the WTO system. The WTO's dispute resolution mechanism has been significantly weakened by the United States' consistent refusal since 2017 to approve appointments to the Appellate Body, which has resulted in the Appellate Body losing its quorum and becoming unable to hear appeals. The result is that while WTO members can bring first-instance complaints before WTO Panels, any adverse ruling against the United States can be effectively neutralised by the US blocking the appointment of an Appellate Body bench to hear its appeal. This institutional dysfunction in the WTO dispute settlement system is one of the

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most serious crises in the history of international trade law, and its implications for tea-exporting countries that seek WTO-based remedies against US tariff violations are grave.

India, which exports 65 million dollars of tea annually to the United States and faces tariff exposure of up to 52 percent under the proposed reciprocal tariff schedule, has engaged in trade consultations with the US through bilateral channels while simultaneously building coalitions with other affected WTO members to press for reform of the WTO dispute settlement system. The India-EU Free Trade Agreement negotiations, which have been proceeding in parallel, have acquired additional strategic significance as India seeks to diversify its export markets in the face of US tariff uncertainty. The legal dimension of these bilateral trade negotiations, including the sustainability chapters of the India-EU FTA that impose labour rights and environmental obligations on Indian exporters to the EU, creates a direct connection between the trade diversification strategy and the labour law reform agenda in the tea sector that this textbook has analysed.

51.3 The GATT Most Favoured Nation Principle and Tariff Discrimination in Tea

A specific legal issue raised by the US tariff structure in its application to tea is the compatibility of the differential tariff rates applicable to different tea-exporting countries with the most favoured nation (MFN) obligation of GATT Article I. The MFN principle requires that any advantage, favour, privilege, or immunity granted by a WTO member to the products of any country be extended immediately and unconditionally to the like products of all other WTO members. If the United States grants Kenya a 10 percent tariff on tea while imposing 52 percent on India, 88 percent on Sri Lanka, and 145 percent on China for products that are, in the WTO sense, like products, the MFN obligation appears to be violated.

The administration's legal response to this argument has been to characterise the differential tariff rates as the product of country-specific reciprocity calculations that reflect the trade policies of the importing country toward the United States, rather than as differential treatment of the product. Whether this framing is legally defensible under WTO law is a contested question. The WTO Appellate Body has generally interpreted the MFN obligation broadly and has been sceptical of justifications for product-level tariff differentiation that rely on origin-neutral criteria that in practice produce differential outcomes based on national origin. The country-specific reciprocity rationale, while politically coherent, does not obviously meet the legal requirements for MFN exceptions under GATT, which are limited to specific enumerated categories including regional trade agreements (Article XXIV), developing country preferences under the Enabling Clause, and specific waiver decisions.

Kenya's competitive advantage in the US market under the AGOA framework is legally distinct from the differential treatment of other producers, because it rests on a specific preferential trade programme for sub-Saharan African countries that has a recognised legal basis in the Enabling Clause's provisions for developing country preferences. But the differential treatment of India versus Sri Lanka, or of China versus Argentina, rests on no such recognised legal basis, and the

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MFN challenge to these differentials is legally meritorious even if the WTO dispute settlement dysfunction makes it practically difficult to pursue.

The legal implication for tea-exporting countries is that they have a stronger legal case under WTO law than the political circumstances allow them to press effectively. This gap between legal right and practical remedy is itself a jurisprudential condition of enormous importance: it illustrates precisely the kind of enforcement gap in international trade law that the international legal scholar B.S. Chimni, in his critical analysis of international economic law from a Third World perspective, has described as one of the defining characteristics of the international legal order's structural bias in favour of the powerful.

51.4 Contract Law Consequences of Tariff Disruption: Force Majeure, Frustration, and Price Adjustment Clauses

The immediate practical legal challenge facing tea companies in the wake of the US tariff regime is not primarily the public law question of WTO compatibility but the private law question of how the additional costs of the tariffs are allocated between buyers and sellers in existing commercial contracts. Long-term supply agreements, forward purchasing contracts, and spot trading contracts in the tea sector typically contain provisions that address price adjustment in the event of changes in applicable duties and taxes. The legal analysis of these provisions in the context of the US tariff shock is an area of active commercial litigation and negotiation.

The most legally contested question is whether the imposition of unexpected and severe tariffs can constitute a force majeure event within the meaning of a commercial contract's force majeure clause, or alternatively whether it can constitute a frustrating event within the common law doctrine of frustration that discharges the contractual obligations of the party rendered unable to perform economically by the tariff. The answer to this question depends critically on the specific language of the force majeure clause (if any) in the contract, the governing law of the contract, and the factual circumstances of the party seeking relief.

Under English law, which governs a large proportion of international tea trading contracts (particularly those associated with the London tea market and the Mombasa and Colombo auctions), the doctrine of frustration requires that the supervening event be one that was unforeseeable at the time of contracting, that it be beyond the control of the parties, and that it render the performance of the contract radically different from what was contemplated. The US tariff regime of 2025, while unpredictable in its specific levels, is arguably foreseeable in general terms given the political context of the second Trump administration, which campaigned explicitly on a tariff-intensive trade policy. Courts applying English law are likely to approach frustration claims based on tariff increases with considerable scepticism, on the grounds that commercial parties in the tea trade are sophisticated actors who should have anticipated the possibility of tariff increases and incorporated appropriate price adjustment mechanisms into their contracts.

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Under Indian contract law, the analogous doctrine is the impossibility or impracticability of performance under Section 56 of the Indian Contract Act 1872. Section 56 provides that a contract to do an act which, after the contract is made, becomes impossible or, by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible or unlawful. The application of Section 56 to tariff-induced economic impracticability is even more constrained than the English law doctrine of frustration, because Indian courts have generally required a high threshold of impossibility rather than mere economic hardship or financial loss. A tariff increase that makes a particular trade relationship significantly less profitable but does not make performance literally impossible is unlikely to meet the Section 56 threshold.

The practical consequence of this analysis for tea companies caught between contractual obligations and tariff-induced cost increases is that the primary avenue of relief is likely to be commercial negotiation rather than legal remedy: renegotiating existing contracts to introduce tariff adjustment clauses, seeking agreement from buyers to share the tariff cost, or in the most extreme cases accepting contractual breach and bearing the damages liability rather than performing at a loss. The legal advice that commercial lawyers in the tea sector need to provide in this environment is therefore fundamentally transactional and risk-assessment-oriented rather than primarily litigation-oriented.

51.5 Tariff Revenue and the Legal Politics of Trade Protection

A dimension of the US tariff regime that is often neglected in the technical legal analysis but is critically important for the political jurisprudence of tea law is the question of who benefits from tariff revenue and at whose expense. Tariffs are taxes. The revenue collected from them accrues to the US Treasury. The cost of the tariff is ultimately borne by the combination of US consumers (through higher prices), US importers (through reduced margins), and foreign exporters (through reduced export revenues). The distribution of the tariff burden between these three groups is a question of empirical economics, but its normative implications are directly legal in character.

For tea workers in India, Sri Lanka, Kenya, and China, the US tariff regime is not an abstract geopolitical matter. It is a direct threat to their livelihoods. If US importers respond to the tariff cost by cutting import volumes or switching to lower-tariff suppliers, the consequent reduction in demand for teas from high-tariff origins will depress prices at the Mombasa, Colombo, and Guwahati auction centres. Lower auction prices translate directly into lower prices for smallholder farmers (whose green leaf price is determined as a proportion of the made tea auction price), lower revenues for estates, and downward pressure on wages and welfare provision for plantation workers. The econometric modelling of these second-order effects is complex, but the directional impact is clear: US tariff increases on tea exports from India and Sri Lanka make the workers and farmers of those countries poorer while generating revenue for the US government.

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This is not merely an economic observation. It raises a legal question of distributive justice in international trade that the existing framework of WTO law does not address. The WTO system protects the rights of exporting country governments to challenge tariff measures that violate negotiated commitments. It does not protect the rights of the individual workers and farmers in exporting countries whose livelihoods are damaged by those measures. The development of an international legal framework that recognises the rights of affected workers and communities to participate in trade policy processes and to seek compensation for the damages they suffer from unilateral trade measures is one of the most important reform agendas in international economic law, and it is one to which the jurisprudence of tea law makes a distinctive contribution.

CHAPTER FIFTY-TWO: THE KENYA TEA REVOLUTION: REGISTRATION REGULATIONS, LEVY LAW, AND THE PARLIAMENTARY INVESTIGATION INTO KTDA

52.1 Kenya's Tea Reforms of 2026: The New Regulatory Architecture

The Kenyan tea industry entered 2026 in a state of combined opportunity and crisis. On the opportunity side, tea export earnings rose to 218.79 billion Kenyan shillings, approximately 1.7 billion US dollars, in 2025, a strong recovery driven by higher global prices, expanded market reach to 100 export destinations, and the strategic shift from volume-driven to quality-driven production that the government had been promoting. On the crisis side, the parliamentary investigation into the Kenya Tea Development Agency had exposed allegations of corruption, cartelisation, and systematic underpayment of farmers that had generated intense political anger across the 21 tea-growing counties, with senators and members of parliament from Kisii, Nyamira, Kericho, Bomet, Nandi, and Nyamira demanding accountability and structural reform.

The government's response to this combination of opportunity and crisis was legislative in its most concentrated form. In April 2026, Agriculture Cabinet Secretary Mutahi Kagwe announced the enactment of the Tea (Registration and Licensing) Regulations 2026 and the Tea (Levy) Regulations 2026, the most comprehensive regulatory reform of Kenya's tea sector since the Tea Act 2020 itself. These regulations represent a significant expansion of the regulatory state's reach into the tea value chain, and their legal analysis reveals both the progressive potential and the risks of heavy-handed state intervention in a sector that has historically been plagued by precisely the combination of market failure and governance dysfunction that the regulations seek to address.

The Tea (Registration and Licensing) Regulations 2026 establish a comprehensive registration system covering every participant in the tea value chain, from farmers and cooperatives through factories, brokers, exporters, and blenders. Every actor in the chain must register with the Tea Board of Kenya, demonstrate compliance with specified standards as a condition of registration, and submit to periodic compliance monitoring as a condition of continued registration. The Tea Board is empowered to suspend, revoke, or vary licences in cases of non-compliance, a

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significant expansion of the Board's enforcement powers compared to the previous regulatory framework.

Specific provisions of the Regulations address the long-standing abuses of the green leaf trade, including hawking of green leaf outside the designated collection system, exploitation by middlemen who intercept leaf between the farm and the factory, manipulation of weighment records at collection points, and delays in leaf collection that cause quality degradation and farmer losses. These provisions introduce strict penalties for violations, including both administrative sanctions (licence suspension or revocation) and criminal liability for the most serious offences.

The Tea (Levy) Regulations 2026 introduce a 0.8 percent export levy on tea and a 100 percent levy on tea imports. The export levy is designed to generate a sustainable funding stream for the Tea Board's marketing, research and development, infrastructure, and regulatory functions, replacing the historically inadequate and often contested arrangements for funding these activities. The import levy is designed to protect Kenyan tea producers from the dumping of low-quality imported teas that undermine the domestic market and damage Kenya's global pricing reputation.

52.2 The KTDA Crisis: Governance Failure, Cartelisation, and the Legal Framework for Accountability

The parliamentary investigation into the Kenya Tea Development Agency has revealed governance failures of systemic character that go beyond the specific abuses documented in individual cases. The investigation, triggered by farmer anger over the sharp decline in bonus payments for the 2024 to 2025 financial year compared to the previous year, heard evidence of regional price disparities in bonus payments that could not be explained by differences in production costs or quality, of management decisions that appeared to benefit connected parties at the expense of ordinary farmers, and of anti-competitive practices by intermediaries that suppressed prices and farmer earnings.

The Senate Agriculture Committee's inquiry identified, and the National Assembly Agriculture Committee confirmed, the existence of what it characterised as cartels within the tea industry, operating at multiple levels of the value chain and through multiple mechanisms to extract economic rents at the expense of smallholder farmers. The legal characterisation of these practices as cartels is significant, because it activates the framework of the Competition Act 2010 (now the Competition Act 2023 in its amended form), which prohibits agreements and practices that have the object or effect of substantially lessening competition in a market.

The Competition Authority of Kenya's jurisdiction over the tea sector is not in question: the tea market is a market in Kenya and practices that distort it fall within the Authority's mandate. But the exercise of that jurisdiction has been complicated by the structural features of the KTDA framework, in which the same farmers who are the victims of the anti-competitive practices are also, through their membership in KTDA-affiliated factory companies, the nominal owners of

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the entities that are the primary market actors. The legal analysis of market power and its abuse in a cooperative or quasi-cooperative structure is considerably more complex than in a conventional market with clearly distinct buyers and sellers, and the development of appropriate legal standards for the assessment of competition law compliance in the KTDA context is an important gap in the existing Kenyan competition law jurisprudence.

The specific allegation of regional price disparities in bonus payments, which Nominated Senator Esther Okenyuri raised in the Senate and which Kisii Senator Richard Onyonka had been pursuing for over two years before receiving a substantive response, illustrates a legal question of both competition law and administrative law significance. If factories within the KTDA system in different regions are paying different bonus rates for teas of equivalent quality sold through the same auction system, the disparity requires a legal explanation. If the disparity cannot be explained by legitimate cost or quality differences, it raises questions of both discriminatory treatment under general administrative law principles and, if it reflects coordinated behaviour by market participants, of anti-competitive conduct under the Competition Act.

The legal remedy for affected farmers in this situation requires navigation of a complex institutional landscape. Farmers can raise concerns within the KTDA factory governance structure, where they have formal representation on factory boards. They can petition the Tea Board of Kenya, which is the primary regulatory authority for the tea sector. They can complain to the Competition Authority of Kenya. They can petition parliament, which the events of 2025 demonstrate is a practically effective avenue when the political temperature is high enough. And they can, in theory, seek judicial review of specific administrative decisions that they allege are unlawful.

In practice, the access to justice barriers for individual smallholder farmers seeking to challenge institutional governance failures in the tea sector are formidable. The financial cost of litigation, the technical complexity of the legal issues, the geographic remoteness of legal services from many tea-growing areas, and the risk of commercial retaliation against farmers who are seen as troublemakers by the management of the factory to which they are tied by geographical proximity, all combine to make individual legal challenge impractical for most affected farmers. The development of class action or group litigation mechanisms that allow farmers to aggregate their claims and share the costs and risks of legal action is therefore an important institutional reform need in the Kenyan tea sector context.

52.3 Direct Sales, Market Reform, and the Legal Architecture of Price Transparency

A central element of Kenya's tea reform agenda in 2025 and 2026 is the expansion of direct sales channels, through which tea factories can bypass the auction system and negotiate directly with international buyers. The Mombasa auction, which has historically been the dominant channel for the marketing of Kenyan tea, sets prices through a weekly competitive bidding process that has been praised for its efficiency and criticised for its vulnerability to buyer coordination and price manipulation. The direct sales model, in which factories deal directly with buyers through

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negotiated contracts, offers the potential for higher and more stable prices and for the development of premium specialty teas that command significant price premiums in niche markets.

The legal framework for direct sales has been a matter of significant controversy in the Kenyan tea sector. Under the Tea Act 2020, the regulatory framework for direct sales was established, but the specific licencing requirements, quality standards, and reporting obligations for direct sales transactions were left to be developed through subsidiary legislation. The Tea (Registration and Licensing) Regulations 2026 partially address this gap by establishing registration requirements for actors in the direct sales channel, but the full regulatory framework for direct sales remains under development.

The competition law implications of the direct sales framework are significant and have not been fully analysed in the existing literature. The shift from an auction-based market to a bilateral negotiation model changes the competitive dynamics of the tea trade in ways that can be either pro-competitive or anti-competitive depending on the market structure. If direct sales enable smaller factories and smaller farmers' cooperatives to access international buyers and premium markets that the auction system had effectively excluded them from, the effect is pro-competitive and welfare-enhancing for farmers. If direct sales enable large factories with established buyer relationships to capture the most profitable market segments while smaller factories are left with the residual and less profitable auction market, the effect may be anti-competitive and welfare-reducing for the farmers in less well-positioned factories.

The legal obligation of the Tea Board of Kenya, as the regulatory authority for the sector, is to design and enforce the direct sales framework in a manner that promotes the competition and price transparency objectives of the Tea Act 2020. Agriculture Cabinet Secretary Kagwe's statement that price transparency is no longer optional but a necessity is a politically useful formulation, but the legal operationalisation of that commitment requires specific regulatory provisions governing the disclosure of direct sales prices, the terms of direct sale contracts, and the mechanisms for ensuring that direct sales revenues are distributed to farmers in accordance with the cooperative principles that govern factory ownership. The development of these specific legal provisions is one of the most pressing regulatory tasks facing the Tea Board in 2026.

52.4 The Tea Levy Regulations 2026 and the Constitutional Principles of Tax Law

The Tea (Levy) Regulations 2026's introduction of an 0.8 percent export levy and a 100 percent import levy raises important questions of Kenyan constitutional and tax law. The levying of charges on economic activities is a sovereign power of the state that the Kenyan Constitution vests in Parliament through the principle of no taxation without parliamentary authorisation, enshrined in Article 209 of the Constitution. Subsidiary legislation, including regulations made under the Tea Act, can only impose levies where the parent Act specifically authorises such levies. The Tea Act 2020 does include provisions for the imposition of a tea levy, and the Regulations implement those provisions, but the level of the levy, the mechanism for its collection, and the framework for the allocation of levy revenue must all be consistent with the

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authority granted by the parent Act and with the constitutional requirements of proportionality and non-discrimination.

The 100 percent levy on tea imports is particularly interesting from a constitutional and trade law perspective. On its face, a 100 percent levy on imports is a very aggressive trade protection measure. Its interaction with Kenya's WTO commitments requires careful analysis. Kenya is a member of the WTO and is bound by its tariff schedule, which specifies bound tariff rates for tea. A domestic levy imposed on tea imports would be, in WTO law, equivalent to a tariff for the purposes of Article II of GATT, and if the levy plus any existing import duty exceeded Kenya's bound tariff rate for tea, it would violate Kenya's WTO commitments. The legal distinction between a tariff and an internal levy (relevant because GATT Article III, which governs internal taxes, applies different disciplines from Article II, which governs border measures) is determined in WTO jurisprudence by whether the charge is applied exclusively to imports (in which case it is a border measure subject to Article II) or whether it applies equally to domestic and imported products (in which case it may be an internal measure subject to Article III). A levy applied exclusively to imported tea would be a border measure subject to Kenya's tariff bindings, and its legality under WTO law would depend on whether the levy rate, combined with existing import duties, exceeds the bound rate.

These WTO law considerations have direct practical implications for Kenyan tea policy. If the import levy is legally vulnerable under WTO law, Kenya's trading partners, including producing countries that export tea to Kenya such as China, India, and Vietnam, may have WTO legal rights to challenge the levy. The development of a legally defensible framework for import levy regulation in the tea sector therefore requires careful WTO legal advice alongside the domestic constitutional and regulatory analysis.

CHAPTER FIFTY-THREE: SRI LANKA'S TEA ECONOMY IN 2025 AND 2026: WAGES, INFORMALISATION, AND THE RIGHTS OF ESTATE TAMIL WORKERS

53.1 The 2026 Budget Wage Increase and Its Legal Significance

The announcement by Sri Lanka's President Anura Kumara Dissanayake of significant wage increases for tea estate workers in the 2026 budget represents a politically significant development in the history of Sri Lankan plantation labour law, occurring in a context of prolonged advocacy by trade unions, civil society organisations, and the international labour rights community for wages adequate to support a dignified life for estate workers and their families.

The legal significance of the budget announcement requires careful contextualisation. A budget announcement of wage increases for estate workers does not, by itself, create legally enforceable rights to those wages for individual workers. The translation of a budget commitment into enforceable law requires either a statutory minimum wage notification applicable to the estate

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sector or the negotiation of collective agreements binding on estate employers. The Sri Lanka Wages Board, established under the Wages Board Ordinance, is the mechanism through which statutory minimum wages are set for different sectors of the economy, including the estate sector. The legal process through which the 2026 budget commitment translates into a Wages Board notification for tea estate workers, and the timeline and content of that notification, are the legally critical questions that practitioners and trade union advisors need to monitor.

The wage increase announced in the 2026 budget follows a period of intense labour unrest in the Sri Lankan estate sector. The Ceylon Workers Red Flag Union, which represents a significant proportion of estate workers, protested in April 2025 against the informalisation of labour in the plantation sector, a process through which estate employers convert permanent employment relationships to more casual and informal arrangements that carry lower wage obligations and fewer welfare entitlements. The legal dimension of this informalisation controversy is directly parallel to the issues examined in the Indian context in earlier chapters of this textbook: the conversion of permanent to casual employment is a mechanism for evading the legally mandated minimum standards applicable to permanent workers, and it represents a form of legal arbitrage that the regulatory framework must be designed to prevent.

The informalisation of plantation labour in Sri Lanka raises specific constitutional questions. Under the Sri Lanka Constitution, the right to equal protection of the law (Article 12) and the right to freedom from discriminatory treatment in employment (developed through the jurisprudence of the Supreme Court in its constitutional jurisdiction) provide a basis for challenging employment arrangements that are structured to deny workers the protection of applicable labour law. If an estate employer converts permanent workers to casual status for the primary purpose of avoiding legal obligations rather than for genuine operational reasons, that conversion may be challengeable as a discriminatory employment practice or as a violation of the worker's right to equal protection.

53.2 The Tamil Estate Worker and the Continuing Injustice of Partial Citizenship

The legal status of Tamil estate workers in Sri Lanka remains one of the most complex and troubling questions in the field of tea law, as Part One of this textbook discussed in its historical analysis of the Ceylon Citizenship Act 1948 and the Indo-Ceylon Agreements of 1964 and 1974. In 2025 and 2026, the legal situation of Tamil estate workers has evolved in some respects while fundamental inequities persist.

The Citizenship Act has been amended multiple times since independence, and the great majority of Tamil estate workers and their descendants have now been granted Sri Lankan citizenship. But the process of citizenship grant was prolonged and incomplete, and significant numbers of Tamil estate workers and their family members spent decades in legal statelessness that denied them access to public education, healthcare, and social security programmes on equal terms with Sinhalese citizens. The legacy of this period of statelessness continues to affect the socioeconomic position of Tamil estate communities, whose access to the state's social

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protection infrastructure remains, in practice, less comprehensive than that of comparable communities in the majority population.

The social security dimension of the Tamil estate worker's legal position is particularly significant in 2025 and 2026 as Sri Lanka's formal social protection system undergoes reform under the economic stabilisation programme agreed with the International Monetary Fund following the country's 2022 economic crisis. The IMF-supported reform programme includes restructuring of social welfare transfers and the rationalisation of social protection institutions. The legal framework governing estate workers' access to the Employees' Provident Fund, the Employees' Trust Fund, and the social welfare programmes of the national Samurdhi scheme are all affected by the reform process, and the specific implications for Tamil estate workers, who have historically had more complicated relationships with social security institutions due to the employment-based character of their social protection, require careful legal analysis.

The right to development, articulated in the UN Declaration on the Right to Development (1986) and increasingly recognised in treaty practice as a norm of international law with legal weight, provides a framework for assessing Sri Lanka's obligations toward the Tamil estate community. The development of a comprehensive reparative framework that acknowledges the historical injustice of the citizenship denial and the continuing socioeconomic disadvantage it has produced, and that provides specific legal and material remedies for that disadvantage, is an obligation that the right to development would support as a matter of both international human rights law and transitional justice.

53.3 The Colombo Tea Auction, Market Power, and Legal Reform

The Colombo Tea Auction, operated by the Colombo Brokers Association and regulated by the Sri Lanka Tea Board, is the world's largest tea auction by volume traded. Through the Colombo auction, the prices of Sri Lankan teas are determined and the economic value of the country's most important export commodity is distributed among the estate owners, processing factories, broker companies, and export companies that participate in the auction system.

The legal framework governing the Colombo auction is the subject of ongoing reform discussion in the context of Sri Lanka's tea sector modernisation agenda. The concerns driving reform include the market concentration among the small number of broker companies that dominate the auction, the information asymmetry between buyers (who typically have sophisticated market intelligence) and sellers (estate owners who may have less access to real-time market information), and the question of whether the auction mechanism generates the maximum possible return for tea producers or whether market power enables buyers to systematically undervalue the teas on offer.

The competition law analysis of the Colombo auction market raises questions analogous to those examined in the Kenyan context. The concentration of the brokerage function among a small number of established companies, combined with the structural barriers to entry that characterise the auction system (including relationships, capital requirements, and the tacit knowledge

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requirements of professional tea tasting and brokering), creates a market structure that warrants sustained regulatory attention. The Sri Lanka Competition Commission's jurisdiction over the tea sector has not been extensively exercised in relation to the auction system, and the development of specific analytical frameworks for assessing competition in agricultural commodity auction markets is an area where economic regulatory expertise and legal analysis need to be combined in a more systematic way than has yet been attempted.

CHAPTER FIFTY-FOUR: CLIMATE LAW AND THE TEA SECTOR: LEGAL FRAMEWORKS FOR ADAPTATION AND MITIGATION IN A DESTABILISED WORLD

54.1 The Physical Reality of Climate Disruption in Tea Landscapes

The legal analysis of climate change's impact on the tea sector requires beginning with the physical facts, because the law's response to climate disruption must be calibrated to the scale and character of the disruption that it is seeking to address. The facts, as they have manifested in 2024 and 2025, are severe.

In Sri Lanka, extreme weather events have with unprecedented frequency and severity exposed what the THIRST tea news service described in December 2025 as the fragility of tea landscapes. The combination of extended drought periods, intense cyclonic rainfall events, landslides in the steep hill country where the premium high-grown teas are cultivated, and disruption of the labour force's capacity to work under extreme heat conditions has produced yield volatility of a character and magnitude that goes beyond the normal range of agricultural production variability and represents a new climatic normal for which the tea industry's existing legal, financial, and institutional frameworks are inadequate.

In India's Assam region, extreme weather in 2024 and 2025 has produced flooding events that have inundated tea estates, destroying infrastructure, damaging the tea bush stand, disrupting plucking schedules, and displacing workers from the labour lines. The legal framework for disaster relief and compensation in the plantation context is inadequate for these events, because the existing disaster management law and crop insurance frameworks are primarily designed for open-field agriculture and smallholder farming contexts rather than for the complex social and productive infrastructure of the plantation estate.

In Kenya's tea-growing highlands, climate disruption has contributed to the production decline from 598.5 million kilos in 2024 to 550 million kilos in 2025, a reduction of approximately 8 percent, which has been identified by the East African Tea Trade Association as demonstrating the need for structural reform to stabilise the sector against climate-related production variability. The legal and governance response to this climate-driven production decline requires attention to both adaptation (measures that help the sector cope with the changed climate) and mitigation

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(measures that reduce the greenhouse gas emissions that drive further climate change), and the legal frameworks for each are distinct.

54.2 Climate Change Litigation and the Tea Sector

The emerging global jurisprudence of climate change litigation provides potentially important legal tools for tea sector communities affected by the consequences of insufficient climate action by governments and corporations. Climate change litigation has developed rapidly since 2015, encompassing direct challenges to government climate policies (such as Urgenda Foundation v. State of the Netherlands (2019), in which the Dutch Supreme Court upheld a court order requiring the Dutch government to reduce greenhouse gas emissions by 25 percent relative to 1990 levels), challenges to specific projects that contribute to climate change (such as Friends of the Irish Environment v. Ireland (2020)), and litigation against corporations whose operations contribute disproportionately to greenhouse gas emissions (such as the wave of cases against oil and gas companies in multiple jurisdictions).

The application of climate change litigation strategies to the tea sector has several potential dimensions. The most direct application would involve challenges by tea-growing communities to government decisions that allow or promote activities that significantly increase greenhouse gas emissions in or affecting the tea-growing regions. The deforestation of forest areas adjacent to or within tea-growing watersheds, which reduces the water regulation services provided by forest cover and exacerbates the drought and flooding cycles that are damaging tea production, could potentially be challenged through both environmental law (using the framework of the Environment Impact Assessment regulation and the Forest Conservation Act) and climate law (using the emerging constitutional right to a healthy environment).

A second application involves the corporate liability dimension of climate litigation. Litigation against the major oil and gas companies in multiple jurisdictions has sought to hold them liable for the damages caused by their contribution to global warming. The applicability of this approach to tea sector grievances would require demonstrating that specific corporate actors bear a sufficiently specific and quantifiable share of responsibility for the climate impacts affecting tea communities to generate actionable legal claims. The legal and evidentiary challenges of attribution in this context are formidable, but the attribution science has advanced significantly in recent years, with specific studies demonstrating that the emissions of specific companies have contributed a quantifiable fraction of observed global temperature increase and its associated impacts.

A third application, perhaps the most practically accessible in the short term, involves the use of the existing framework of environmental and administrative law to challenge regulatory approvals for industrial activities that generate local climate or environmental impacts affecting tea-growing areas. A factory permitted to pollute a river that provides irrigation water for a tea estate, a road project permitted to destroy the forest cover that moderates the water supply to tea-growing slopes, an industrial development permitted to discharge greenhouse gases without adequate assessment of the local climate impacts on adjacent agricultural land: all of these are

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situations where the existing frameworks of environmental impact assessment law and administrative law review provide potential legal remedies that do not require the development of novel climate liability doctrine.

54.3 The Legal Framework for Climate-Smart Tea Agriculture

The concept of climate-smart agriculture, developed by the FAO as a framework for agricultural adaptation and mitigation in the context of climate change, has legal dimensions that require analysis. Climate-smart agricultural practices in the tea sector include shade-tree integration (agroforestry systems that reduce heat stress, improve moisture retention, and sequester carbon), cover cropping, reduced tillage, optimised fertiliser management, precision irrigation, and the cultivation of climate-resilient tea cultivars developed through conventional breeding or biotechnology.

The legal framework for incentivising and requiring climate-smart practices in the tea sector operates at multiple levels. At the national policy level, the Nationally Determined Contributions (NDCs) submitted by tea-producing countries under the Paris Agreement commit to specific emissions reduction and adaptation goals in the agricultural sector. India's NDC includes commitments to increase forest cover and to promote climate-smart agriculture practices that are directly relevant to the tea sector. Kenya's NDC includes commitments to achieve climate-resilient and low-carbon agricultural development. Sri Lanka's NDC includes commitments to reduce deforestation and promote sustainable land management. The legal question is whether these NDC commitments generate enforceable domestic legal obligations or whether they remain primarily aspirational policy frameworks.

The legal enforceability of NDC commitments has been the subject of growing litigation globally. In the Urgenda case in the Netherlands, the court held that the government's NDC commitment created a legally enforceable obligation to take adequate measures to achieve the committed emissions reduction. The legal theory underpinning this conclusion is that the government's international commitment, read in conjunction with the constitutional right to life and the duty of care under domestic tort law, generates an enforceable domestic legal obligation to take adequate climate action. The application of this reasoning in Indian, Kenyan, and Sri Lankan courts, where the constitutional and tort law frameworks are different from those of the Netherlands, would require adaptation but is legally plausible.

For the tea sector specifically, the legal operationalisation of climate-smart agriculture commitments requires the development of specific standards and incentive mechanisms. These include mandatory climate impact assessments for new plantation development, tax incentives for the adoption of agroforestry systems, preferential access to government-subsidised agricultural insurance for farmers who adopt climate-smart practices, and quality standards for tea exports that incorporate sustainability criteria including climate adaptation practices. The development of these specific instruments is a priority for the regulatory agenda of tea boards and agricultural ministries in the major producing countries.

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CHAPTER FIFTY-FIVE: THE DARJEELING GEOGRAPHICAL INDICATION AND THE NEPAL TEA CONTROVERSY: IP LAW, TRADE FRAUD, AND THE PROTECTION OF ORIGIN

55.1 The Darjeeling GI Under Siege: Import Regulation and Border Enforcement

The Tea Board of India's January 2026 enforcement initiative against the illegal mislabelling of imported teas as Darjeeling tea is one of the most significant GI enforcement actions in the history of Indian intellectual property law, and its legal analysis illuminates broader questions about the relationship between geographical indications law, customs and trade enforcement, and the prevention of consumer fraud in global commodity markets.

The background to the enforcement initiative is well-established in the literature on Darjeeling tea GI protection, which this textbook has discussed in earlier chapters. Darjeeling tea is India's most famous geographical indication, registered under the Geographical Indications of Goods (Registration and Protection) Act 1999 as the first Indian GI, and internationally recognised in major markets through a network of bilateral agreements and WTO TRIPS obligations. The GI protects the exclusive right to use the term "Darjeeling" as a description or indication of tea to teas that originate in the Darjeeling tea-growing region (specifically, the 87 gardens in the district of Darjeeling recognised by the Tea Board) and that are produced in accordance with the standards of manufacture associated with the Darjeeling character.

The enforcement challenge that has been building for years, and that the January 2026 initiative directly addresses, is the importation of teas from Nepal that are of similar botanical character to Darjeeling tea (because Nepal's high-altitude growing regions near the Darjeeling border produce teas from similar cultivars in similar conditions), sometimes mixed with genuine Darjeeling tea, and then mislabelled and exported with Darjeeling branding to premium markets in Europe, the United States, and Japan. Nepal has duty-free access to the Indian market under a bilateral trade treaty, which makes the importation of Nepal teas into India through the Panitanki port near Siliguri particularly straightforward. The concern raised by the Tea Board and by the Darjeeling tea industry association is that teas imported from Nepal or other origins under duty-free or duty-exempt provisions are subsequently mixed with small quantities of genuine Darjeeling tea and then marketed as Darjeeling tea, diluting the GI's exclusivity and defrauding both consumers and legitimate Darjeeling producers.

The legal framework for addressing this problem operates at three levels. At the border, the Customs Act 1962 and the Customs (Import of Goods at Concessional Rate of Duty) Rules provide authority for customs authorities to inspect and detain consignments that appear to violate GI protections or to be diverting goods from their declared end use. The Tea Board's 2026 initiative involved strengthening the monitoring systems at the key ports identified as primary entry points for potentially mislabelled imports, including Panitanki, Tuticorin, and Cochin.

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At the domestic market level, the GI Act provides that any person who uses a registered GI in relation to goods that do not originate in the registered GI area commits an offence punishable with imprisonment of between six months and three years and a fine of between 50,000 and 200,000 rupees. The enforcement of this provision against domestic traders who blend or mislabel tea requires investigation by the Tea Board's enforcement officers and prosecution through criminal courts, both of which are slow and resource-intensive processes.

At the international level, the TRIPS Agreement's provisions on geographical indications (Articles 22 to 24) require WTO members to provide legal means for interested parties to prevent GI infringement. The scope of this obligation has been the subject of sustained negotiation in the WTO, with India and other GI-intensive countries pressing for enhanced protection that would give GIs closer to the absolute protection available to well-known trademarks, while the United States and some other members have resisted such enhancement on the grounds that it would impose disproportionate compliance costs on their domestic food and beverage industries.

55.2 The Nepal Question: Treaty Obligations, Good Faith, and the Bilateral Trade Framework

The specific legal challenge of Nepal teas being potentially used to dilute Darjeeling GI protection requires careful analysis of the bilateral legal relationship between India and Nepal in the tea trade context. Nepal enjoys duty-free access to the Indian market for most goods, including tea, under the Treaty of Trade between India and Nepal. This duty-free access is a significant economic benefit for Nepal's emerging tea industry, which produces teas in the high-altitude areas of eastern Nepal that are of broadly similar character to Darjeeling teas.

The suggestion that Nepal teas are being used to adulterate Darjeeling GI products is, if substantiated, a matter of concern not only for Indian GI law but for the bilateral trade relationship between India and Nepal. India's right under the bilateral treaty framework to impose monitoring and inspection requirements on imports that may violate domestic GI protections is not legally clear-cut. The treaty's provisions for market access do not explicitly override India's right to enforce its GI legislation, but the practical exercise of GI enforcement at the border in a manner that imposes significant costs or delays on Nepal tea imports could be characterised as a discriminatory restriction on the treaty's market access commitments.

The legal resolution of this tension requires a cooperative approach between India and Nepal that develops common standards for the documentation and certification of tea origins, creating a traceability system under which the provenance of tea imported into India from Nepal can be verified against Nepalese production records before blending or processing occurs. The development of such a system would require bilateral agreement on the standards and governance structure of the traceability framework, ideally supported by the SAARC framework or a specific bilateral tea trade protocol.

The broader jurisprudential lesson of the Darjeeling GI enforcement challenge is that geographical indications, as a form of collective intellectual property that seeks to protect the

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economic value of regional origin, are only as effective as the institutions and legal mechanisms through which they are enforced. The GI Act's provisions, the TRIPS Agreement's obligations, and the bilateral trade treaties that govern market access for GI-sensitive products must all work together in a coherent enforcement system. The development of that system, for Darjeeling tea and other Indian GIs at risk of infringement through the duty-free import pathway, is a priority for India's trade and intellectual property policy in the period ahead.

CHAPTER FIFTY-SIX: LABOUR UNREST, THE RIGHT TO STRIKE, AND COLLECTIVE ACTION IN THE TEA SECTOR OF 2025

56.1 The Wave of Labour Unrest Across South Asia

The THIRST Tea News Update of May 2025 recorded intensifying labour unrest across South Asia in the tea sector, a development that reflects the combination of stagnant wages, inflationary pressure on the cost of living, the disruption of export markets by the US tariff regime, and the frustration of tea workers with the pace of legal reform and the adequacy of its implementation. In Sri Lanka, the Ceylon Workers Red Flag Union conducted protest actions against the informalisation of plantation labour. In India's Assam region, absenteeism, manpower shortages, and disputes over wage arrears were reported across multiple estates, reflecting a workforce increasingly unwilling to accept wages and conditions that have not kept pace with inflation or with the living standards of the broader society.

The legal framework governing the right to strike in the tea sector is, in both India and Sri Lanka, the product of complex interactions between constitutional guarantees of freedom of association, statutory industrial relations law, and the specific provisions applicable to the plantation sector. In India, the right to strike is a fundamental right implicit in the freedom of association guaranteed by Article 19(1)(c) of the Constitution, but it is subject to restrictions imposed by law that are in the interest of the sovereignty and integrity of India, public order, or morality. The Industrial Relations Code 2020 regulates the exercise of the right to strike through notice requirements, conciliation procedures, and prohibitions on strikes during specific periods. In essential services, the strike is subject to more stringent controls.

The question of whether the tea sector qualifies as an essential service for the purposes of strike regulation has been the subject of legal debate in India. The Essential Services Maintenance Act 1968 and its state equivalents define essential services for the purposes of prohibiting or restricting strikes. Tea cultivation and processing has not historically been classified as an essential service in most Indian states, but the seasonal nature of tea plucking, the irreversibility of the loss of yield if a flush is not plucked at the right time, and the economic significance of the industry to the state economies of Assam and West Bengal have all been invoked by management and government representatives to argue for restrictions on strike action during critical periods of the plucking season.

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The legal analysis of this argument requires distinguishing between the employer's economic interest in uninterrupted production and the public interest in the continuity of essential services. The former does not justify restricting the fundamental right to strike. The seasonal urgency of tea plucking is an economic consequence of the industry's reliance on a biological production cycle, but it is not an emergency in the public interest sense that justifies the suspension of workers' fundamental rights. The courts have generally been reluctant to classify tea as an essential service for the purposes of the ESMA, and this reluctance is legally and constitutionally correct.

56.2 Fair Pay Charters, Corporate Voluntarism, and the Limits of Soft Law

A notable development in the tea sector in 2025 was the signing of the Fair Pay Charter by Mark Clayton of the C2W Group, described as the first British business leader in Asia to commit to ethical employment standards through this instrument. The Fair Pay Charter is a voluntary commitment by employers to pay workers wages that are not merely at the legal minimum but at a level that enables workers to live with dignity, cover their basic needs, and participate in the life of their communities.

The legal and jurisprudential analysis of voluntary fair pay commitments in the context of a sector characterised by systematic wage inadequacy requires a sceptical but not dismissive assessment. The case for optimism about voluntary commitments is that they can move faster than legislation, can be applied across jurisdictions without the coordination costs of multilateral treaty-making, and can generate competitive pressure on other employers to follow suit through the market mechanism of consumer preference for ethically produced products. The case for scepticism is that voluntary commitments are unenforceable, that they are subject to the ongoing competitive pressure to minimise labour costs that the global tea market generates, and that they serve primarily to manage corporate reputation without generating the structural changes in the political economy of the supply chain that justice requires.

The jurisprudential tradition of responsive regulation, developed by Braithwaite and Ayres, suggests a more nuanced approach than either pure endorsement or pure scepticism of voluntary commitments. In a responsive regulatory framework, voluntary commitments are taken seriously as a first step that can be reinforced by escalating regulatory requirements if they are not honoured. The Fair Pay Charter, the Ethical Tea Partnership's monitoring framework, the Rainforest Alliance's certification standards, and the industry-level collective agreements negotiated in Assam and West Bengal's tea sectors all function as elements of a multi-tiered regulatory system in which voluntary commitments at the top are progressively reinforced by more mandatory requirements below. The legal challenge is to ensure that the mandatory requirements are genuinely mandatory and genuinely enforced, so that the voluntary layer does not become a substitute for law but rather a supplement to it.

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CHAPTER FIFTY-SEVEN: TEA PRACTITIONERS AND LEGAL EDUCATION: TRAINING FOR THE NEXT GENERATION IN 2025 AND 2026

57.1 The Emerging Profile of the Tea Law Practitioner

The tea law practitioner of 2025 and 2026 is a professional of extraordinary interdisciplinary demands. Within the span of a single working week, she or he may be required to advise a tea estate owner on compliance with the new OSHWC Code's provisions in the post-PLA landscape, to counsel a smallholder farmers' cooperative on their legal rights against a KTDA factory management that is applying their bonus at a rate lower than their neighbours', to negotiate a supply contract with a European importer that includes CSDDD-compliant due diligence provisions, to advise on the customs documentation requirements for a Darjeeling export consignment to Japan, to review a plantation's biometric data collection practices against the requirements of the Digital Personal Data Protection Act 2023, and to draft a whistleblower protection policy for a tea company establishing a worker complaints mechanism in anticipation of EU due diligence obligations.

This remarkable range of legal competence is not something that any existing legal education programme, in India, Kenya, Sri Lanka, or elsewhere, systematically prepares its graduates to provide. The standard LLB curriculum, even supplemented by a postgraduate LLM specialisation in commercial or labour law, does not provide the combination of agricultural science literacy, supply chain law expertise, constitutional labour law depth, international trade law competence, digital law knowledge, and cultural and linguistic familiarity with plantation communities that effective tea law practice requires.

The response to this educational gap must operate at multiple levels simultaneously. At the undergraduate legal education level, the integration of interdisciplinary perspectives into the core curriculum, through courses that treat agricultural law, labour law, environmental law, and trade law as connected rather than separate disciplines, would provide a foundation on which subsequent specialisation can build. At the postgraduate level, the development of dedicated masters programmes in agricultural and plantation law, ideally offered jointly between law schools and agricultural policy institutions, would create the specialist training pipeline that the field needs. At the continuing professional development level, the bar councils, law societies, and professional associations of the major producing countries need to develop specific CPD programmes in the rapidly changing areas of digital law, supply chain compliance, and environmental law that are most acutely changing the practice context for tea sector lawyers.

The National Law Universities of India, with their distinctive combination of five-year integrated LLB programmes and strong research cultures, are well-positioned to lead the development of tea law as an academic and professional discipline. The National Law University Assam in Guwahati, located in the state that accounts for approximately fifty percent of India's tea production and is home to the most complex and most litigated body of plantation labour law in the country, has a particular responsibility and a particular opportunity to develop this specialisation. The development of a Centre for Plantation and Agricultural Law at National Law

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University Assam, with a dedicated research and clinical mandate addressing the legal issues of Assam's tea-growing communities, would be a transformative institutional development for the field.

57.2 Darjeeling Welfare Society and the Gates Foundation Initiative: Legal Dimensions of Vocational Training

The April 2025 initiative led by the Darjeeling Welfare Society in collaboration with the Gates Foundation and Grant Thornton Bharat, aimed at reviving approximately half of Darjeeling's closed tea gardens through vocational training, enterprise creation, and market linkage programmes, raises important legal questions about the governance of welfare interventions in the plantation sector and the legal status of the programmes they create.

Darjeeling's tea industry has been particularly severely affected by garden closures. The combination of climate stress at high altitudes, the premium market position that makes Darjeeling teas vulnerable to demand-side fluctuations in the global luxury goods market, the specific labour market dynamics of the Gorkhaland movement that has periodically disrupted production in the region, and the longstanding inadequacy of investment in the estate infrastructure have produced a situation where a significant proportion of Darjeeling's tea gardens have been partially or fully abandoned, leaving thousands of workers without livelihoods and the physical and social infrastructure of the plantation communities in a state of deterioration.

The vocational training and enterprise creation component of the initiative raises questions about the legal framework governing skill development in India's plantation sector. The Skill India mission, launched by the central government in 2015, provides policy and funding frameworks for vocational training across sectors including agriculture and food processing. The National Skill Qualification Framework establishes levels and standards for vocational qualifications. The development of specific vocational qualification standards for tea-related occupations, including tea processing, quality assessment, organic certification management, and agro-tourism, would provide a formal credential structure that workers completing the initiative's training programmes could obtain and use as a basis for alternative or supplementary employment.

The legal relationship between the private initiative, the state government's plantation welfare framework, and the central government's skill development programmes is a complex area of jurisdictional interaction that the initiative's legal architecture needs to navigate carefully. The plantation's status as private property and the estate employer's continuing obligations under the OSHWC Code in respect of workforce development create a potential interface between the private initiative's training activities and the employer's legal obligations that requires careful documentation and governance.

57.3 Solar-Powered Rickshaw Vans, Alternative Livelihoods, and the Legal Framework for Cooperative Enterprise

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The Solidaridad-backed initiative in Jalpaiguri, West Bengal, distributing solar-powered rickshaw vans to small tea growers who serve tea from bought-leaf factories, is a creative livelihood diversification intervention that illustrates the intersection of cooperative law, micro-enterprise regulation, and the emerging framework of green economy promotion in the agricultural sector.

The legal structure of the cooperative enterprise model for smallholder tea vendors requires attention to the Cooperative Societies Act of the relevant state (West Bengal's Cooperative Societies Act 2006), the microfinance regulatory framework under which initial capital for the rickshaw vans might be accessed, the road transport licensing requirements for the operation of rickshaw vans as commercial vehicles, the food safety and hygiene licensing requirements for the preparation and serving of tea from mobile vending points, and the tax implications of the micro-enterprise income generated by the vendors.

This constellation of regulatory requirements, spanning multiple departments, multiple levels of government, and multiple regulatory frameworks, illustrates what regulatory scholars describe as the administrative burden of compliance that falls particularly heavily on small-scale enterprises and which can effectively negate the intended economic benefit of enterprise creation programmes. The simplification and integration of the licensing and compliance requirements applicable to micro-enterprises in the food and beverage sector, through a single-window registration system analogous to those that India has developed in other regulatory domains, would significantly reduce the administrative barrier to entry for small tea vendors and other agricultural micro-entrepreneurs. The development of appropriate legal reforms in this area, working through state-level cooperative and microenterprise law reform rather than waiting for national-level legislative action, is an area where the legal advocacy community in the tea-growing states can make a practical and immediate contribution.

CHAPTER FIFTY-EIGHT: THE FUTURE OF TEA AUCTIONS: DIGITISATION, BLOCKCHAIN, AND THE LAW OF TRANSPARENT MARKETS

58.1 E-Auctions and the Legal Framework for Digital Tea Trading

The progressive digitisation of the tea auction system in India, Kenya, and Sri Lanka, through the adoption of e-auction platforms that allow registered bidders to participate in the auction process electronically rather than in person, is transforming the commercial law framework through which tea is traded and raising new legal questions about market transparency, electronic contract formation, and the legal status of digitally recorded auction transactions.

The Guwahati Tea Auction Centre's record-breaking performance in the 2024 to 2025 financial year, reported in April 2025 as being driven by improved quality, favourable markets, and global demand for premium Assam tea, occurred in a context of progressive adoption of the electronic auction system that the Tea Board of India has been promoting as part of its broader digital

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transformation agenda. The e-auction system allows buyers who are not physically present at the auction centre to bid in real time through an electronic platform, expanding the pool of potential buyers and introducing market participants from outside the traditional geographic catchment area of the physical auction.

The legal framework for electronic auction transactions is provided in India primarily by the Information Technology Act 2000 and the Indian Contract Act 1872 as amended to accommodate electronic contracts. The legal validity of contracts formed through the e-auction platform depends on compliance with the electronic signature and authentication requirements of the IT Act, the adequacy of the platform's security against manipulation or interference, and the legal character of the auction's terms and conditions as a set of contractual provisions that bind participating buyers and sellers.

Specific legal issues that the e-auction framework raises include: the legal consequences of technical failures in the platform that prevent valid bids from being recorded, the allocation of risk between the auction operator, the seller, and the buyer when a technical failure results in a sale at a price different from that which would have prevailed in a technically sound auction; the jurisdiction and enforcement of electronic contracts where buyer and seller are in different countries with different contract law frameworks; the data protection implications of the personal and commercial data collected and processed by the e-auction platform; and the competition law implications of the e-auction operator's access to commercially sensitive bidding data from multiple auction participants.

58.2 Blockchain Traceability in Tea: Legal Implications and Governance Challenges

The deployment of blockchain technology to create immutable, transparent records of tea's journey from the plantation through processing, auction, and export to the consumer's cup has advanced significantly in the 2023 to 2026 period, with multiple pilot programmes and commercial implementations across the major producing countries. From a legal perspective, blockchain traceability systems have potential to address some of the most persistent problems in tea law, including the documentation of GI compliance, the verification of organic certification, the prevention of the mislabelling of origin, and the provision of evidence for supply chain due diligence obligations.

The legal questions raised by blockchain traceability in the tea sector are, however, more complex than its promoters sometimes acknowledge. The fundamental legal question is the evidentiary status of blockchain records: when a blockchain record states that a particular batch of tea originated at a specific estate on a specific date, what is the legal weight of that statement in a contractual dispute, a food safety enforcement action, a GI infringement prosecution, or a supply chain due diligence compliance audit?

The answer to this question depends on the design of the blockchain system, the processes by which data is entered into the blockchain, and the legal framework governing electronic records in the relevant jurisdiction. A blockchain record is only as reliable as the process by which the

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initial data was entered. If a tea plucker's harvest weight at the collection point is recorded by a supervisor who has incentive to inflate the weight, the blockchain record of that inflated weight will be an immutable and perfectly transparent record of a fraud. The blockchain's immutability guarantees that the record cannot be altered after entry, but it provides no guarantee that the data entered was accurate in the first place. The legal authentication of blockchain-based tea traceability records therefore requires not only the technical infrastructure of the blockchain but an independent audit and verification process for the off-chain activities that generate the data that enters the chain.

The Bharatiya Sakshya Adhiniyam 2023, India's replacement for the Indian Evidence Act 1872, has specific provisions governing the admissibility of electronic records in legal proceedings. The admissibility of blockchain-based tea traceability records in Indian courts would need to comply with these provisions, including the authentication requirements that establish that the electronic record was produced by the system from which it purports to emanate without alteration. The development of specific legal guidance on the authentication of blockchain records in the tea and agricultural context is an area where the Tea Board of India, in consultation with the Ministry of Electronics and Information Technology and the legal community, could provide valuable regulatory clarity.

CHAPTER FIFTY-NINE: MATCHA, FUNCTIONAL TEAS, AND THE EMERGING LAW OF HEALTH CLAIMS IN TEA MARKETING

59.1 The Global Matcha Boom and the Legal Framework for Premium Product Claims

The global matcha market has experienced dramatic growth in the 2023 to 2026 period, driven by the convergence of health and wellness consumer trends, social media promotion of matcha-based beverages, and the coffee shop industry's embrace of matcha lattes and matcha-based products as premium offerings. The THIRST Tea News of May 2025 recorded that the global matcha market is experiencing severe shortages, with Japanese producers imposing purchase limits, against the backdrop of surging demand and, in the United States market, the additional complication of a 24 percent tariff on Japanese matcha imports.

The legal dimensions of the matcha boom are multiple. The first concerns the legal regulation of the term "matcha" itself and the question of whether it constitutes a geographical indication protected under the TRIPS Agreement and applicable national GI law, or whether it has become a generic term describing a category of ground green tea regardless of origin. The answer to this question is not settled in law. Japan has sought to argue that "matcha" refers specifically to a traditional Japanese green tea preparation and that the term should receive GI-level protection analogous to Darjeeling or Champagne. Others argue that "matcha" has become a generic term for the style of preparation (stone-ground powdered green tea) and that Chinese, Korean, and other origins can legitimately use the term.

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The legal resolution of this dispute has significant commercial consequences, because if "matcha" is a generic term, producers from China (which is the largest alternative producer of ground green tea marketed as matcha) can use the term freely, while if it retains GI-level protection, only genuine Japanese matcha qualifies. The US tariff of 24 percent on Japanese matcha, combined with the much higher effective tariff rate on Chinese tea products, has the perverse effect of disadvantaging genuine Japanese matcha relative to cheaper Chinese alternatives in the US market, creating strong commercial pressure to resolve the genericness question in a way that benefits Chinese producers. The legal and trade policy management of this pressure is one of the more interesting current issues in the intersection of intellectual property law and trade law affecting the global tea market.

59.2 Health Claims Regulation and the Evidence Standards for Tea

The FDA's consideration of tea for inclusion in the 2025 Dietary Guidelines for Americans as a healthy beverage, referenced in the trade advocacy submissions of the Tea Association of the USA in the context of the tariff debate, raises the broader question of the regulatory framework governing health claims in tea marketing in major consuming markets. The legal framework for health claims on food and beverage products in the United States, the European Union, and other major markets is complex, highly regulated, and potentially very consequential for the commercial value of specific tea categories.

In the United States, the FDA distinguishes between several categories of health claims: nutrient content claims (which describe the level of a specific nutrient in a food), health claims (which describe a relationship between a food or nutrient and a disease or health condition), and structure/function claims (which describe the role of a nutrient or ingredient in the body's normal function or structure). The evidentiary standards for each category differ, with authorised health claims requiring significant scientific consensus (specifically, the standard of "significant scientific agreement" for standard health claims) and structure/function claims requiring a lower evidentiary threshold but also offering less regulatory protection from challenge.

The legal strategy of tea companies seeking to make health claims about their products in the US market requires careful navigation of these regulatory categories. The well-documented antioxidant properties of tea polyphenols, particularly catechins, provide a scientific basis for structure/function claims about oxidative stress management. The epidemiological evidence linking tea consumption to reduced risk of cardiovascular disease, Type 2 diabetes, and certain cancers has been assessed in multiple systematic reviews, and while the evidence is generally supportive, it has not been assessed as meeting the "significant scientific agreement" standard for authorised health claims under FDA regulations. The legal challenge for tea companies is to communicate the genuine health benefits of their products in ways that are compliant with regulatory requirements while being sufficiently clear and compelling to influence consumer choice.

In the European Union, the regulation of nutrition and health claims on foods is governed by Regulation (EC) No 1924/2006, which establishes a centralised authorisation system under

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which health claims must be assessed and approved by the European Food Safety Authority (EFSA) before they can be used in marketing. EFSA has assessed a large number of health claims related to tea and tea components and has authorised a limited number of claims while rejecting others for insufficient evidence. The legal framework in the EU is therefore considerably more restrictive than in the United States, and tea companies seeking to make health claims in the EU market must operate within the tight boundaries of EFSA-authorised claim language.

The emerging consumer demand for functional teas, products that are formulated or marketed for specific health benefits beyond hydration and general wellness, creates a regulatory frontier where the line between food, dietary supplement, and medicine is contested. Tea products that are marketed for specific therapeutic benefits, such as the management of stress, the improvement of sleep quality, or the support of immune function, may cross the regulatory boundary between food and medicine in some jurisdictions, triggering pharmaceutical regulatory requirements that food businesses are not designed to meet. The legal risk management of this regulatory frontier is an important area of commercial advice in the tea sector.

CHAPTER SIXTY: TOWARD AN INTEGRATED THEORY OF TEA JURISPRUDENCE: THE LEAF, THE LAW, AND HUMAN DIGNITY IN THE TWENTY-FIRST CENTURY

60.1 The Coherence Challenge: Unifying the Fragments of Tea Law

This textbook has traversed an enormous range of legal terrain, from the colonial land law of nineteenth-century Assam to the blockchain traceability regulations of twenty-first-century global supply chains, from the constitutional right to livelihood of a dismissed plantation worker in the Guwahati High Court to the WTO dispute settlement jurisprudence on the national security exception for tariffs. The question that this final chapter must address is whether, and in what sense, this diversity of legal material can be unified into a coherent jurisprudence of tea law, a body of legal thought and practice that has its own distinctive concepts, its own analytical methods, and its own normative commitments.

The case for coherence rests, as the Introduction to Part One argued, not on the existence of a separate hierarchy of legal norms specific to tea law but on the shared subject matter, the shared history, and the shared normative commitments that link the diverse doctrines and institutions examined in this text. The coherence of tea law is the coherence of a story, not of a logical system. It is the story of a plant and the people whose lives are organised around its cultivation, processing, and trade, and of the law's successive attempts, sometimes progressive and sometimes regressive, to govern those lives justly.

The analytical method of tea jurisprudence that this textbook has developed combines doctrinal legal analysis (the rigorous examination of statutes, cases, and regulations to identify the precise

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content of applicable legal rules), historical legal analysis (the examination of how current rules were shaped by past events and power structures, including the colonial past that is so pervasive in the architecture of plantation labour law), philosophical legal analysis (the engagement with the theories of justice, rights, and the state that explain and evaluate the law's normative commitments), political legal analysis (the examination of the political interests and power dynamics that shape legislative outcomes and judicial decisions), and comparative legal analysis (the identification of similarities and differences across the legal frameworks of different producing countries that reveal the range of possible approaches to shared problems).

60.2 The Normative Core of Tea Jurisprudence: Dignity, Capability, and Solidarity

The normative commitments of tea jurisprudence, as this textbook has developed them, centre on three core values: dignity, capability, and solidarity. These values are not unique to tea law, they are shared with the broader traditions of human rights law, labour law, and development law from which this field draws. But their application in the specific context of the tea sector gives them a particular content and urgency that is distinctive.

Dignity, as a legal value in the tea sector, means that the plantation worker is a person, not an instrument of production. It means that the legal framework must treat workers as ends in themselves, in Kant's formulation, rather than as means to the production of a commodity for the consumption of others. Dignity in this sense requires not only freedom from physical coercion and arbitrary treatment but also the positive conditions, including adequate wages, secure housing, access to healthcare and education, and freedom of association, that enable a person to recognise and assert their own worth. The persistent violation of these conditions in the tea sector, documented throughout this textbook, is not merely an economic or regulatory problem. It is a failure of dignity in the most fundamental philosophical sense.

Capability, as a legal value in the tea sector, means that the legal framework must be assessed not only by the rights it formally recognises but by the real freedoms it enables or constrains. Sen's and Nussbaum's capabilities approaches, which have been invoked repeatedly in the preceding chapters, insist that the measure of a just legal order is not the elegance of its rules but the quality of the lives that those rules make possible. The capability to participate in community life, to exercise political voice, to benefit from the fruits of one's own labour, and to live free from the fear of arbitrary dispossession or dismissal: these are the capabilities that a just tea law must protect and expand.

Solidarity, as a legal value in the tea sector, means that the problems of the tea worker in Assam are not separable from the consumption choices of the tea drinker in London, the trade policy of the government in Washington, or the investment decisions of the pension fund in Amsterdam. The global supply chain of tea is a chain of interconnected responsibilities, and a jurisprudence of tea law that confines its analysis to the domestic law of producing countries, without addressing the international frameworks through which the power of consuming country markets reaches back through that chain, is a jurisprudence of solidarity betrayed. The emerging body of supply chain due diligence law, the ILO's engagement with global supply chains, and the climate

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change litigation that seeks to hold global emitters accountable for the local impacts of climate disruption: all of these are expressions of the principle of solidarity that a mature tea jurisprudence must embrace.

60.3 The Unfinished Business of Tea Law: Ten Priorities for the Coming Decade

In closing this textbook, it is appropriate to articulate the ten most urgent priorities for the development of tea law as a field of scholarship, practice, and advocacy in the coming decade. These priorities are not exhaustive. They are the judgements of a textbook author who has followed the field through its most rapid period of transformation and who believes that the following areas represent the most critical intersections of legal inadequacy, human urgency, and scholarly opportunity.

The first priority is the monitoring and enforcement of the post-PLA legal framework for plantation welfare in India, including the systematic documentation of coverage gaps, the development of constitutional litigation strategies to maintain PLA-level standards under the OSHWC Code, and the advocacy for specific statutory amendments to address the three coverage gaps identified in this supplementary part.

The second priority is the legal analysis and advocacy response to the US tariff regime's impact on tea trade, including the development of WTO-compatible legal strategies for affected producing countries, the analysis of private contract law consequences for commercial actors in the supply chain, and the advocacy for a more equitable and rules-based international trade framework for agricultural commodities.

The third priority is the legal development of the Kenyan tea reform agenda, including the assessment of the Tea (Registration and Licensing) Regulations 2026 and the Tea (Levy) Regulations 2026 for their WTO compatibility and their distributive impact on smallholder farmers, and the development of legal accountability mechanisms for the KTDA governance failures identified in the parliamentary investigation.

The fourth priority is the completion of the reparative justice agenda for Tamil estate workers in Sri Lanka, including the development of a comprehensive legal framework for the recognition and compensation of the harms caused by the Ceylon Citizenship Act 1948, the extension of full and equal social security rights to Tamil estate workers and their families, and the legal reform of the plantation wage system to ensure genuine living wages for all workers.

The fifth priority is the development of a comprehensive legal framework for climate-smart agriculture in the tea sector, including the operationalisation of NDC commitments in domestic law, the development of specific standards and incentives for climate adaptation practices, and the establishment of legal pathways for tea-growing communities to seek accountability for climate harms.

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The sixth priority is the protection and enforcement of the Darjeeling GI and other tea geographical indications against infringement through import mislabelling and adulteration, through the development of cooperative origin verification systems with Nepal and other potential sources of infringing imports.

The seventh priority is the legal framework for AI and digital technology governance in the tea sector, particularly in the areas of algorithmic labour management, biometric surveillance, AI quality assessment, and the accountability of AI-generated innovations in breeding and processing.

The eighth priority is the access to justice infrastructure for tea sector communities, including the development of legal aid systems, community paralegals, and specialised dispute resolution mechanisms that make the formal legal rights of workers and smallholder farmers practically accessible rather than theoretically nominal.

The ninth priority is gender justice in the tea sector, encompassing equal pay, anti-discrimination, maternity protection, and women's land rights in the plantation context, with particular attention to the intersectional disadvantages of women workers in the temporary and casual employment categories.

The tenth and final priority is the development of tea law as an academic discipline, through the creation of dedicated research centres, postgraduate programmes, clinical legal education initiatives, and practitioner training programmes that develop the specialised knowledge and the normative commitment to justice that the field requires and that the tens of millions of people whose lives it governs deserve.

EPILOGUE: THE PERSISTENT PROMISE

This textbook began with a leaf. A leaf plucked by a woman's hand on a hillside in Assam or Darjeeling or Nuwara Eliya, carried through a world of legal complexity to the cup of a consumer who may be entirely unaware of the journey it has made and the legal structures that have shaped every step of that journey. The law of the leaf is not a technical subject for specialists alone. It is a subject about justice, about the way in which the most powerful and the most vulnerable members of the global economic community are connected to each other through the commodity markets, the labour relations, the environmental systems, and the legal frameworks that govern the world of tea.

The promise of law is that it can be made to serve justice. That promise has been imperfectly realised in the history of tea law examined in this textbook. The colonial legal architecture of coercion and dispossession, the post-colonial frameworks that preserved too much of that architecture in modified form, the international trade law that has too often served the interests of

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the powerful at the expense of the weak: all of these are chapters in a legal history that has fallen far short of law's promise.

But the promise has never been entirely extinguished. The Supreme Court of India's right to livelihood jurisprudence, the Gauhati High Court's supervision of closed garden situations, the ILO's development of conventions on forced labour and plantation workers, the EU's Corporate Sustainability Due Diligence Directive, the Kenyan parliament's investigation of KTDA corruption, the Assam Assembly's passage of the land patta reform, the Gates Foundation's investment in Darjeeling workers' livelihoods, and the legal scholars and practitioners and trade unionists who insist on holding the law to its own standards: all of these are expressions of the law's persistent promise that it can do better.

This textbook is offered as a contribution to that persistence. The law of the leaf is not finished. It is being written, contested, revised, and advanced in every court hearing, every legislative session, every collective bargaining negotiation, every customs inspection, every supply chain audit, and every community paralegal consultation that engages with the rights and the dignity of the people who bring the world's tea from the leaf to the cup. The student who has read this far is now equipped to contribute to that ongoing project. The invitation to do so is open and urgent.

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End of the Supplementary Part

The Law of the Leaf stands complete in its five parts and supplementary continuation. The field continues to grow.

This continuation adds ten new substantive chapters covering the most urgent 2024 to 2026 developments: the repeal of the Plantation Labour Act 1951 confirmed as of December 2025 THIRST; the US tariff war including the 145 percent tariff on Chinese tea and the 10 percent baseline on other producers World Tea News; Kenya's enactment of the Tea (Registration and Licensing) Regulations 2026 and the Tea (Levy) Regulations 2026 with their comprehensive registration system and strict penalties The Star; the parliamentary investigation into KTDA over cartelisation and regional bonus disparities affecting more than 700,000 farmers Serrarigroup; Kenya's record tea earnings of 218.79 billion shillings in 2025 Dawan Africa; Sri Lanka's presidential wage increase commitment for estate workers in the 2026 budget Lanka Websites; the Darjeeling Welfare Society and Gates Foundation initiative for closed garden revival THIRST; and India's crackdown on low-quality tea imports to protect the Darjeeling GI Whalesbook, all treated through the deep jurisprudential, philosophical, historical, and practical analytical framework of the textbook.

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Book Preface

The Law of The Leaf offers a profound exploration of the legal and ethical challenges entwined with tea agriculture.

Bridging history and modernity, this book delves into colonial legacies, labor practices, human rights, sustainability, technological innovations, and governance within the tea industry.

It's an essential resource for academicians, policymakers, and industry professionals, providing insights into fair labor practices, technological traceability, and sustainable growth of one of the world's most iconic commodities.

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